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INDIAN ECONOMIC DEVELOPMENT CONDITIONS

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

OVERSIGHT HEARING ON INDIAN ECONOMIC DEVELOPMENT CONDITIONS

APRIL 9, 1987
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INDIAN ECONOMIC DEVELOPMENT CONDITIONS

THURSDAY, APRIL 9, 1987

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 1:50 p.m., in room 628, Dirksen Senate Office Building, Washington, DC., Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, Evans, DeConcini, Burdick, Daschle, Murkowski, and McCain.

Staff present: Patricia Zell, chief counsel; Joe Mentor, Jr., minority counsel.

Senator MCCAIN [acting chairman]. I would like to commence the oversight hearing on Indian economic development conditions. The reason why we have gone out of order here, for the information of staff and guests here and witnesses, is that the Democrats are in caucus at this time.

I expect Chairman Inouye over here sometime within the next 10 or 15 minutes. Then, according to staff, we could probably get a quorum, take up the pending bills, mark them up, and then resume the hearing. Chairman Inouye has asked that I start the hearing for him until he gets over here. He will be over here just as soon as he possibly can.

I would like to ask for the first panel, Mr. Steve Stallings, the president of the United Indian Development Association, Mr. Robert McLaughlin, president of Robert McLaughlin Company, Mr. Charles Murphy, the chairman of the Standing Rock Sioux Tribe, and Gerald James, treasurer of the Lummi Business Council, if they would please take seats.

I would like to read an opening statement of Chairman Inouye before we begin to hear witnesses. I would also like to express my appreciation to the witnesses for their patience here today, and please know that this committee considers your testimony very important on this very crucial issue of Indian economic development:

OPENING STATEMENT OF SENATOR INOUYE

I would like to welcome everyone to today's hearing. The purpose of this hearing is to take testimony regarding the economic development conditions which exist in Indian country. We have requested testimony from witnesses who represent a wide variety of tribal experiences in economic development. We have also invited individuals who have firsthand experience in working with business enterprises on Indian reservations.

In January 1987 the BIA released a report which summarized the unemployment rate for Indians on reservations. They reported that the overall average rate of unemployment is 48 percent, which is approximately eight times the national average. Some tribes suffer from extreme conditions which greatly exceed even this average. For example, in the State of South Dakota, for all Indian reservations combined, the unemployment rate is 74 percent. On the Zuni Pueblo in New Mexico it was 84 percent, and the dubious distinction for having the highest rate in the report goes to Fort McDermitt in Nevada, where the rate of unemployment was the truly astounding rate of 86 percent.

I am sure that everyone will understand that these statistics represent conditions of extreme poverty, with all of the social, psychological, and health problems that accompany such poverty. Of course, these conditions did not come about overnight but are the direct result of a long history of mistreatment and neglect.

I look forward to the testimony of today's witnesses to tell us what we might do to assist the Indian people to reverse the cycle of poverty and deprivation. As we begin the search for solutions, I think it is appropriate that this committee hear firsthand from the Indians themselves. I announced on March 27, 1987 that this hearing would be the first in a series of hearings that this committee has scheduled to formulate an economic program that would respond comprehensively to the many recommendations for economic development initiatives which have been made in the past.

I recognize that there are no easy answers to the longstanding, deep-seated problems of underdevelopment that exist on Indian reservations, but this does not mean that we should continue with the half-measures that the Government has taken in the past. The other members of the committee have joined me in designating economic development as a matter of the highest priority for this committee in the 100th Congress.

This hearing, then, is very important to enable us to look at the big picture, and from this big picture we might begin to focus on specific proposals to address problems and to take advantage of any opportunities for positive action.

Senator McCain. I would also like to add, as a member of the committee I am very pleased to have the leadership of Chairman Inouye, who has displayed his commitment to economic development on Indian reservations. In my opinion he has done an enormous amount of good for this committee, its staff, and the other Members, and I am very pleased to serve under his leadership.

This afternoon's first witness is Steve Stallings, president of the United Indian Development Association. Steve, welcome, and I apologize on behalf of the committee for any delay that you might have had. Please proceed.

STATEMENT OF STEVEN L.A. STALLINGS, PRESIDENT, UNITED INDIAN DEVELOPMENT ASSOCIATION, EL MONTE, CA

Mr. Stallings. Thank you, Senator McCain.

I will begin by introducing the members of this panel, on my left is Gerald James, Lummi Indian Business Council; to his left, Charles Murphy, chairman of the Standing Rock Sioux Tribe; and at the end of the panel, Bob McLaughlin, economist.

Thank you for the opportunity to appear before the Senate Select Committee today. Recently our National Center for Business and Economic Development conducted the first ever reservation economic summit meeting. I have attached the report of this summit to my testimony as an exhibit. It is from these facts and findings that I base my testimony.

We have found that the situation that now exists on Indian lands is so serious that it can be properly referred to as a national disgrace, and it is worsening each day. This is truly be an embarrassment to the people of this great Nation. It is a deep and critical concern for those of us who are American Indians and those of us that are working on economic development.

We at the same time understand that there is no magic pill or no generalized solution to this problem. What we do know is that 58 percent of the male population on reservations between the ages of 20 and 64 are unemployed, against a national average of only about 12 percent for a comparable group. No matter how one looks at the statistic, it is a blight on the national conscience.

From both political parties over the years, there have been a number of initiatives, and this is a point where we need to rise above partisan politics and begin to deal with this problem on a comprehensive basis. We understand that we have to help ourselves.

At times the problem of economic development on Indian reservations is like the problem of a hunter who goes hunting a grizzly bear. Clearly he wouldn't use a BB gun to hunt a grizzly bear. Instead, he would seek to understand the characteristics of what he was hunting. He would then select a proper weapon to attack the game. Finally, he would develop a strategy and tactics that he would use to get close enough to make the kill and solve the problem.

To a certain extent, we need to utilize the same type of thinking in attacking the problem of economic development on Indian reservations. This hearing and, in fact, the immediate legislative agenda of this committee, is designed to study and examine the economic development bear that we face; to examine it from every possible angle; to discuss strategies and tactics on how to bring it down.

Over the next month you will be discussing concepts such as Indian enterprise zones which will provide tax incentives to private entrepreneurs who set up business on reservations. You will be hearing our proposals concerning preferential treatment to our reservations in receiving Government contracts, and a proposed solution to the financing gap that exists for Indians. You will also be hearing from tribal groups which have successfully overcome the economic development bear on their reservations.

All of these elements are important to achieving successful economic development. Clearly a multipronged attack is warranted, but today we are going to focus our discussion on helping to gain a different perspective on the problem, a perspective from the vantage point of the investment banker, the industrialist, and the entrepreneur, because if we have a better understanding of how the financier looks at American Indians, we will be better able to attract capital and create jobs for Indians on reservations.

At the present time there are about 1,400,000 American Indians in the U.S. Nearly half, or 680,000, live on reservations. On some of the reservations, as cited, particularly those in the Northern Plains, unemployment is extremely serious.

For example, on the Oglala Sioux Reservation at Pine Ridge, SD, unemployment at the present time is nearly 90 percent. On the Crow Reservation, unemployment is presently at an 85-percent level; on the San Carlos Apache and Hopi Reservations, approximately 75 percent; Standing Rock Sioux, Rosebud Sioux, and the Blackfeet Reservations, nearly 60 percent. On many reservations only one-half the work force is employed.

To put these numbers in their perspective, consider for a moment that during the Depression of 1929, unemployment in the United States reached only 25 percent. Therefore, on many reservations unemployment is 100 to 200 percent worse than it was during the Depression years. There is no question about it, on some reservations the problem is difficult, and on others it is downright dismal, conditions which in many cases remain as a nagging legacy of the past. To a certain extent conditions today are even more difficult than they were in the past, since the situation today is exacerbated by problems caused by economic dependency, dependency that is manifested in social problems like alcoholism and drug abuse.

In order to attack the overall problem, we need to study every success story and analyze every failure, in order to determine whether or not the success stories apply to particular situations or whether we can avoid failures that have already been experienced by others. In studying the success stories, there are a few common denominators that can be applied to most problems of economic development, but there are some notable and important exceptions. Generally, one will find that conditions, tactics and strategies that have produced success for some reservations will not be applicable to others.

I am going to defer to the rest of this panel and subsequent panels to talk about the success stories and the problems they experience on their own reservations. Let us discuss, however, these economic conditions that can either hinder or help promote economic development on Indian lands, as primarily viewed by the outside financial world.

We are presenting a matrix of economic conditions that both the Indian and non-Indian world should assess in evaluating the potential for economic development on a reservation. If we understand these conditions—the purpose of this hearing—we will gain an understanding of those issues which will either contribute to or impede economic progress on reservations, and we will then be able to assess how legislation and policy can help or hinder these conditions.

Let's start our economic development matrix with two conditions that are generally common to most underdeveloped reservations. Most underdeveloped reservations, just as underdeveloped Third World countries, have an abundance of labor that is available to work on a low-cost basis. The successful Third World countries have put these resources to work for them quite effectively. These are both positive factors in economic development, and they are colored yellow in this matrix. Less favorable factors are colored blue, while the most difficult factors will be colored red.

To achieve successful economic development requires that the work force develop a good work ethic—that they show up on time, strive to do good work, and work hard, plus also generate a low absenteeism rate. The blue coloring in the example matrix indicates that the situation on this hypothetical reservation is not good but that it should be a correctable impediment. It would be colored red, for example, if the situation were considered to be very serious on these points.

On the other hand, if the top four boxes of the matrix were all yellow, it would mean that the tribe had a work force that was abundant, willing to work at a low wage in order to permit the production of a cost-competitive product in the marketplace. It would also mean that workers had already developed a work ethic that enabled them to be punctual and conscientious about showing up for work—factors that would greatly facilitate economic development.

Some tribes are fortunate enough to have energy resources or other natural resources that can assist in developing a tribe's economy. These resources need to be cataloged, assessed and evaluated to see how they can best be utilized. Other tribes are nearly void of natural resources and must depend only upon their human resources for economic development.

Most tribes have minimal capital resources available to them, which is often a major stumbling block to economic development. However, if a tribe has a work force that is willing to work at a rate low enough to permit a product to be produced or a service to be provided on a cost-competitive basis, the possibility of raising capital would be pretty good if it was also accomplished by a good work ethic and a low absenteeism rate.

Other factors that must be considered in the economic development formula include the tribe's proximity to market areas and the required skill level of their work force. The further away from the marketplace we get, the higher the transportation cost and the greater the need is to offset the cost with a lower cost of labor. Transportation costs and logistics are merely other factors that must be considered in the economic development formula.

When outside money is brought in to finance economic development, the factor of political stability on reservations is often carefully weighted by the financier. If intratribal factionalism is evident to the developers, they will be inclined to stay away, since they are concerned that the tribal group in power may be replaced and their investment lost. Other political instabilities that are evident will also discourage investment.

Other factors that must be weighed in considering economic development include the logistical problems and costs of transporting goods made on the reservation to centers where they can be sold. Considerations such as the availability of roads or railroad service to the reservation, and the availability of trucks or trains to carry products to the market, must be evaluated. In addition, the availability of electricity, water, and gas may be important considerations, depending on what is planned to be produced on the reservation.

There are also some final considerations. Marketable products are an all-important consideration when goods or services are being provided by a tribe. What works for one tribe won't necessarily work for another tribe, but the selection of what should be done is one of the most critical decisions in the success of business and economic development.

Two final elements from the matrix, as you saw, were alcoholism and drug abuse problems and education, which are caused by this dependency syndrome, this lack of belief in future opportunities that exist for young Indian people. The only way to overcome these problems is to create opportunities that will give Indians hope for the future.

I would like to share one approach to economic development with you. If you will refer to page 17 of my testimony, this approach seeks to help Indians deal with all of the factors and conditions that we have talked about; to develop their own leadership and tribal enterprise management; to secure jobs and consistent net wages.

The approach portrayed on page 17 has some important principles to consider:

The desire to create a venture must come from the Indian tribe or individual. It can not be externally imposed by a Government agency with a new program.

There has to be a viable business opportunity in the marketplace.

It must be within the experience range of the Indians involved.

This Indian talent and resources need to be combined in a solid business plan that has competent support services—technical assistance.

The success of the enterprise is contingent upon the personal entrepreneurship of an Indian manager, cautioned with the fact that well-planned economic development will have different levels of achievement in each case and it will take different periods of time, so expectations need to be considered when dealing with Indian reservations.

The problems associated with economic development are indeed difficult, but they are not insurmountable given the proper approach. What we are attempting to do today is to point out many of the major obstacles that must be overcome to achieve success. If our entire matrix were yellow, the problem would be relatively simple, but in the real world we are confronted with shades of blue and red that make the task more difficult, but it is not insurmountable.

The key to economic success is to avoid tackling the overall problem as one huge lump, but to break it down into individual elements, analyze how these elements affect American Indians, and then design legislation, policy and programs to attack each of these problems.

Successful economic development on our reservations will permit American Indians to bring an end to the living conditions which exist today on too many reservations. This is 1987, yet conditions for many are no better than they were in 1887. Too many Indian people are living today without running water, electricity, indoor plumbing, or basic necessities of life in the 20th Century. Too many still endure the hardships of winter without heat.

Through sound approaches to economic development, we can bring an end to these conditions, conditions like those which exist in the village of Oglala on the Sioux Reservation, in which for 1,700 people, only 67 jobs exist.

We pledge our support and cooperation to Congress and the administration, to ensure that future legislation and policy initiatives are properly implemented with Indian guidance and control, thereby achieving our common goals. To begin this process, UIDA has four recommendations: We recommend the enactment of S. 721, the Economic Development Finance Corporation Act, to help solve the capital gap that exists for American Indians; to reauthorize and amend the Indian Finance Act to improve current financing programs; to amend the Buy Indian Act to increase business opportunities for Indians and tribes; and the enactment of S. 788, the Indian Economic Development Act, to create a conducive environment for attracting industry to the reservations. We understand that this bill has been referred to the Finance Committee, but would highly recommend that joint hearings be conducted on S. 788.

And, finally, we recommend that each of these new or amended pieces of legislation include full, comprehensive training and technical assistance get the results that Indians are trying to achieve and to make these programs a success in the future.

That concludes my testimony. If there are any questions, I would be glad to answer them.

[Prepared statement of Mr. Stallings appears in the appendix, supporting documents retained in committee files.]

Senator McCain. Thank you, Mr. Stallings.

I would like to acknowledge that Senator Evans and Senator Burdick are here.

Before we ask questions, perhaps we would go on to the other witnesses. Also, at this time I would like unanimous consent for my opening statement to appear as part of the record.

[Prepared statement of Senator McCain appears in the appendix.]

Senator McCain. Mr. McLaughlin, are you next?

Mr. McLaughlin. It is Charles Murphy.

Senator McCain. Oh, is Charles Murphy next?

STATEMENT OF CHARLES MURPHY, CHAIRMAN, STANDING ROCK SIOUX TRIBE, FORT YATES, ND

Mr. Murphy. Thank you. First of all, I am very pleased to provide testimony before the Indian Affairs Committee.

For the past 25 years the Standing Rock Sioux Tribe has experienced many problems with economic development within our reservation. The Bureau of Indian Affairs has a figure of 79 percent of unemployment on our reservation, which includes North and South Dakota.

Since the 1970's the cutbacks of Federal programs has affected unemployment within the reservation, caused severe hardships, social problems, alcoholism, and family breakups. These are the types of things that are happening within Indian country.

What has happened is that our Indian people, who made their homelands along the Missouri River, had to move off the bottom lands where they made a high success of living way back in the sixties. Those types of things are happening today with this high alcoholism and family breakups.

There are many things that the Bureau of Indian Affairs has offered to the tribes but never has followed up with. The Bureau of Indian Affairs goes around, or they come to the tribes and the tribes ask for various types of things. What they have done is give seed money and never carry out whatever is to be carried out within that particular program.

One of the things that we are trying to improve on our reservation is that the fellow tribal chairmen within the Aberdeen area are asking support on S. 721. Our only economic base for the Standing Rock Indian Reservation is our cattle operators. I would like to ask that the Senators support what we are asking for today for Indian country.

Thank you.

[Prepared statement of Mr. Murphy appears in the appendix.]

The CHAIRMAN. Thank you very much, sir.

Our next witness is the president of the Robert McLaughlin Company of Solen, ND, Mr. Robert McLaughlin.

STATEMENT OF ROBERT McLAUGHLIN, PRESIDENT, ROBERT McLAUGHLIN COMPANY, SOLEN, ND

Mr. McLAUGHLIN. Thank you. Mr. Chairman and members of the committee, I am Robert McLaughlin, president of the Robert McLaughlin Company, a financial and economic analysis firm in Solen, ND, located in the Standing Rock Sioux Indian Reservation. A major client of mine is the Standing Rock Sioux Tribe, who I provide management and business services to.

At Standing Rock there is very longstanding and serious need for an effective investment structure for those tribal members or organizations who have the desire and capability to start and succeed in business. At present, so many hurdles and barriers exist that new entrants, not raised in the culture of entrepreneurships, are overwhelmed by obstacles before they can start, manage, and succeed in business.

Although by no means the only barrier, lack of access to capital through existing means is a major bottleneck. Commercial financial institutions, even with loan guarantees, find it difficult to lend in this context, even to the most credible of new entrants. The great unknowns of the reservations income dependency environment, a unique patron-client based political system, and the special tribal rights and trust legal structure involved give commercial bankers and their legal advisors general cause for concern.

The placing of the Bureau of Indian Affairs credit programs in the hands of commerical institutions, as the administration has recently suggested, will do nothing to improve economic development at Standing Rock. The investments which I believe the development finance institution will be most effective with are those of individual tribal members or Indian organizations.

Those larger outside direct investments by known corporations who have structured and financed, through Government or the private sector, successful firms on reservations—such as the Brunswick Corporation/Devil's Lake Sioux Tribe in North Dakota—have independent capabilities but can also be assisted by the Development Finance Corporation. Such operations are highly regarded and should be encouraged and supported where they can operate successfully.

The Brunswick Corporation originally looked at Standing Rock as a potential site in 1970 and ruled it out because of its isolation and lack of supportive infrastructure. Virtually every other industrial development prospect since 1970 has done the same for similar reasons.

I think that Senator Inouye's bill, S. 721, will go a long way to increasing the capital flow to reservations like Standing Rock, and in that process begin to create a capital market function within the reservation. As a development economist, I have advocated that Congress take such action. It is long overdue.

Both North and South Dakota, realizing how hard it is to get outside capital to flow to this region, have just created venture capital corporations. As an ad hoc member of the North Dakota Economic Development Commission, I heard testimony time and again dealing with the problems North Dakota entrepreneurs were having getting good projects financed.

The same is true on the reservation, with one exception: The situation is further complicated because it is an income dependency and a developing economy. An effective financial intermediary must be equipped to deal directly and efficiently with special problems found in the developing economy context. Commerical institutions simply are not structured to do this, whereas the Development Finance Corporation can be.

Both the States' venture capital corporations and the Indian Development Finance Corporation can work together quite effectively in getting capital to flow to the reservation. Of course, commerical leading institutions, Federal agencies, and self-financing can play a wider role in this context than they are presently able to do. It will be important for the Finance Corporation to provide top-notch technical and management assistance and direction, as well as take equity positions in some investments.

A few years ago I looked at how North Dakota settlers got their starts on the Plains. In 1870 I found there were over 1,000 banks in North Dakota, whereas today there are fewer than 180. Those early banks were, in effect, small development finance institutions which took equity positions and provided technical assistance to the settlers as they started to build North Dakota's agricultural economy. As the agricultural economy grew and matured over the years, those institutions merged and matured into the modern North Dakota commerical banks we know today.

Although we cannot repeat the same scenario of an entire group of little banks because of the changes which have occurred in modern America, we should not lose sight of this important lesson:

that in the development context, a development finance institution will be efficient and can get the job done.

Finally, I have reviewed S. 788, the Indian Economic Development Act of 1987, and I believe the changes made in this bill since Mr. McCain introduced it make it a better piece of legislation. This sort of incentive package, coupled with present Bureau of Indian Affairs and other sources of capital, will work more effectively when the development finance institution is in place and in full operation.

This concludes my formal statement. I will be happy to answer any questions the committee may have.

The CHAIRMAN. Thank you very much, Mr. McLaughlin.

The Chair notes the presence of a quorum at this time, and if the witnesses would just step aside for a few minutes, we would like to take up matters pending before us for markup. We would like to report out a few bills.

[Whereupon, at 2:20 p.m., the committee proceeded to other business.]

The CHAIRMAN. May we proceed with the hearings? Will the first panel resume their places once again?

Our next witness is Mr. Gerald I. James, treasurer of the Lummi Indian Business Council of Bellingham, Washington. Welcome, sir.

STATEMENT OF GERALD I. JAMES, TREASURER, LUMMI INDIAN BUSINESS COUNCIL, BELLINGHAM, WA

Mr. JAMES. Thank you, Senator. As you said, I am Gerald James. I am the treasurer of the Lummi Tribe, and I appreciate the opportunity to testify here today. We are real encouraged by the increasing interest that is being expressed by Congress and the administration, the emphasis on Indian economic development on reservations.

The tribal governments have made dramatic advancements in management capabilities since the 1974 Indian Self-Determination Act, but the tribes are still dependent on Federal assistance in accomplishing anything off into the future. Our tribe is attempting to become totally self-sustaining. We realize the hardships that the U.S. Government is in. We realize what position we are in. We would like to be as self-sufficient as possible.

Since 1974 there have been numerous reports and recommendations on Indian economic development and strategies, but most of these recommendations have never been implemented. I would like to, later on in my testimony describe some of the experiences that we have come across in development barriers and what our potentials are.

The Lummi Tribe operates the largest American Indian fishing fleet in the United States. The majority of our tribal members depend on fishing for their total livelihood. Lummi self-sufficiency will depend on, in the future, good management, enhancement of our resource, harvest of our resource, and processing of our fisheries resource, the utilization of our natural harbor areas, the attraction of private enterprise, and the support services and businesses that will be needed to sustain our fishing economy.

Hopefully, these services and businesses will be able to help us recirculate our currency and use it over more than the one time that it is being used now, when it leaves. We get ex-vessel value off of our fish and it leaves our reservation.

We feel that education and social development are our priority concern. We need a stable family unit. The unemployment that exists on our reservation is extremely high as well as seasonal. Our total economy comes in in a 3-month period, from August through the end of October. During the fishing season we have an unemployment rate of 65 percent; in the 9 months of the year when we are not fishing, we have a 90 percent unemployment rate. This unemployment creates all the destructive social patterns alcoholism, drug abuse, divorce, child abuse, that are prevalent in most other reservations.

Our commercial fishing future as an employment option is very limited. In 1974, with the Boldt ruling, we got a boost in the arm to our economy where we were able to harvest up to 50 percent of the available fish in our usual and accustomed areas, along with 19 other tribes in our area. We went from 1974, where we were at 5 percent of the total fish caught in the State of Washington, to where we are now regularly and easily able to take our total 50 percent share, and that is in a very short period of time. We attained that in 1982, so it only took us 8 years from the suppressed state to where we were able to totally harvest what is available to us.

The Lummi Tribe is the most northern tribe in the State of Washington. We are only 20 miles from the Canadian border and we are, as I mentioned before, the largest fishing tribe, and we are also the largest dependent tribe, where 85 percent of our total fishing economy is derived off of Fraser River stocks that are Canadian origin. Due to the limitations placed on that fishery in the U.S.-Canada negotiations, the treaty between the United States and Canada, we now have a ceiling for all intents and purposes, as we can see, forever on that fishery. We are not going to grow. With all the other constraints on conservation and allocation between the two countries, increases in our other stocks are going to be very hard to come by.

Our population at Lummi is over half under the age of 18. We have a fishing population that is 85 percent under the age of 40. They are going to be there for quite some time. To kind of give you a hint at why we are so heavily interested in economic development, we did a population study in 1984 that showed in the 5-year period from 1985–90, we will have 398 Lummis that will be turning the age of 18. There will be no place for them in the fishery, economics-wise. We have to do something else for those young people. We have to give them other opportunities.

More and more of our children are going to college now, but we still have a very high dropout rate in high school and below high school. We have very little control of this education system. It is split up into several different funding agencies. We need to get control of that so that we can guide our youth into areas where we are going to need them when we get our economic development on-line. At the current time we are getting people back with liberal arts degrees, when we need engineers and attorneys and administrators and business majors. These people are being frustrated. They have gone through all this college and we cannot provide them with a job.

We feel that we need to institute several major initiatives at the same time in order to be successful. We need the business development. We need to get vertically integrated into our industry, to where are are getting more than just the ex-vessel value off of the fishing grounds. We need to get into the processing and into the marketing. We need to get into the cold storage end. We need to get into the support industries that sell the gear, that repair the gear.

We need training of our unemployed and low-skilled people. If we bring economic development into our reservation and they are not equipped to handle it education-wise, they are going to feel insufficient and we are not going to get participation from our people. We need our social services and family counseling to be more of a top priority. We need the infrastructure, the improvements in roads and water and sewer and utilities, to make sure that we can bring in the industries that are desirable.

We realize this is a very demanding feat to accomplish. We have struggled quite a while over trying to prioritize these issues: What do we need first? It is not something that is easily done and we haven't been able to do it very well, as far as prioritizing which one is first, so we are, with our limited resources, trying to do them all.

On some of the success stories and trials and tribulations of getting into economic development, the tribe has purchased and has been operating for the last 6 months successfully the "Fishermen's Cove" complex, which includes a restaurant, a grocery store, boat and engine sales, and a boat storage and launching facility as well as manufacturing of boats. It took us over 2 years from the inception of, "Yes, it's a good project," and a go-ahead point, to get all the financing going, jumping through the hoops. We have five different funding sources within this project, a $2.4 million project. We had to go to five different sources to eventually get the capital to purchase this facility, and one of the big sources, the FHA loan application, took 18 months from start to finish to get through. That program is now no longer available.

We have last year implemented a private enterprise between several fishermen, a fisheries marketing association where we purchased our own fish, we had our fish custom-processed, we had them marketed, to initiate the first step in getting vertically integrated into that industry. We ended up at the end of the year with $2.4 million in sales and we were pleasantly surprised that it went as well as it did, trying to use it as a steppingstone and a visual aid to other tribal members to show that it can be done. This year hopefully, if everything goes right, we should have $6.4 million in sales.

We entered into an effort in 1985 to bring on board a hopefully potential source of business attraction. We went through all the hoops and were able to bring the first Indian, totally Indian-owned foreign trade zone into existence. That has not as yet brought any development onto the reservation. We have several companies interested but it takes a lot of negotiations to get all the money to come together on that. That process took 1 year and 8 months to go through the Federal hoops.

One of our recommendations to help, that we feel is needed, is stable tribal governments. You cannot have a fluctuating tribal government and expect to bring in any meaningful economic development. Hopefully the amendments that are being proposed to the Self-Determination Act will solve some of these problems, but the fluctuations in 638 contracts have caused so much instability in tribal government that it is very hard to operate. You are spending over half of your time chasing around grants and contracts, rather than implementing and bringing to fruition good goals and objectives and accomplishments that should be derived from Public Law 93-638 contracts.

We also feel that all Federal Indian programs should be consolidated and coordinated through one Federal agency. As I mentioned before, through a couple of enterprises that we have gone into, the maze of Federal bureaucracies that you have to go through in order to bring a small project to finalization is just amazing. For a tribe that has very limited resources, that is very difficult to do. Our tribe, we do not pay any of our tribal council people; we are all volunteer. If it weren't for a lot dedication and perserverance, we wouldn't have brought a lot of these projects into being, so we would like some consideration of that so that maybe we can get into a multiagency, multiyear contracting similar to what is done currently with trust territories and foreign aid.

As with trust territories and foreign aid, I would like to bring up testimony that was given by our chairman last year, Larry Kinley, on the idea of political risk insurance that is provided now for investment in trust territories and foreign governments, Third World countries. The tribes are now being asked, either by the Federal agencies or by banks, to give up sovereign immunity. We have very little of it left and we would like to hold onto some of it. We feel that this area should be investigated, and it seems to us to be an answer to that question of waiving sovereign immunity.

In conclusion I would like to say that everything being discussed today and done today is due to our mutual treaties, and for the stability and welfare of tribal governments. That should be the priority of the Congress and the administration. As most of the panel members here said today—I think all of them have said—we do have our problems, but none of them are insurmountable. They can be overcome. Again, I appreciate the support that is being given by this committee, and hope that the legislation that is being considered comes to reality for Indian country.

Thank you.

[Prepared statement of Mr. James appears in the appendix.]

The CHAIRMAN. Thank you very much. I would like to thank all of you for your participation on this first panel.

Before we proceed with our questions, I think the record should show that S. 721, the measure that is before us this day, is the product of our staff director, Mr. Alan Parker. I think it represents the sum total of all of his experiences in working with Indian claims, as president and chief executive officer of the American Indian Bank and serving on this committee staff. This is not something that he dreamt up 2 weeks ago. I know that he has been thinking about this for many, many years.

We have every intention to pursue legislation to its ultimate passage, but I have just one question to any of you: Do you have any suggestions for legislation?

Mr. STALLINGS. Senator Inouye, we have refrained from commenting directly on S. 721 because there is a hearing scheduled in the near future for which many of us will be preparing testimony on. However, the primary concern is that any piece of legislation like this, must remain revenue-neutral or fit in with funding for existing programs.

The feeling of the majority of people involved in economic and business development currently, who are professionals in the field, think that by a current restructuring of existing programs and resources with a little added incentive, the Indian Development Finance Corporation Act can become a reality and become a very important part of future development on reservations.

I directed many of my comments regarding the capital gap that exists in current financial institutions and financial markets which are not able to solve, as a result of a number of things like jurisdiction, trust land, and just the cost of financing in an area that bankers are not familiar with. Bankers tend to be fairly clean in their deals, and reduce the time allowed to analyze them to very short periods of time and they say yes or no. Unfortunately, it is not so cut and dried in the Indian world. A lot of constraints and opportunities have to be taken into consideration, and S. 721 allows us to do that.

The CHAIRMAN. I would hope that any of you here or in the Indian country who feel that they have ways of improving this measure would come forth with their recommendations before the hearing, to give the committee and the staff an opportunity to look them over, and who knows, we may be able to come up with a substitute in time for the hearings.

Yes, sir?

Mr. McLAUGHLIN. Mr. Chairman and members of the committee, one of the more serious problems that we have experienced at Standing Rock is the lack of management capability. It just simply isn't there—and because of dependency it doesn't come about in the family. Not many of us are in business, so one of the important things that I think the bill has to address, and it does address it but it may be strengthened, is the equity participation of the bank. That will inject management, at least at the onset of a project's first years, and then it can be withdrawn and sold back to the organization or to the individual, so I would like to say that I think that equity participation is very, very important.

The CHAIRMAN. I would like to relinquish the Chair for a few moments. There is a 6-hour difference between here and Hawaii, and I must place a call at this time so, if I may, I will call upon the Vice Chairman.

Mr. STALLINGS. If I might just follow on Mr. McLaughlin's comment, another added element to enhance the management capability of Indians would be comprehensive training and technical assistance as part of the Indian Development Finance Corporation, one that allows for Indians to acquire the management, technical, marketing and financial skills to make enterprises productive and successful. This can be achieved in a number of ways, by researching the whole area and providing for ongoing technical assistance in each deal to allow them to come to fruition in terms of the original business plan. We have provided language on technical assistance which should be included in all Indian business and economic development legislation.

Senator EVANS [acting chairman]. Let me turn to Senator Burdick for any questions he might have.

Mr. BURDICK. Yes; I have a few questions for Mr. Allen White Lightning and to Mr. Bob McLaughlin. First to Mr. White Lightning: Do you have any idea what the per capita income on the Standing Rock Reservation is today? If you don't have it, could you supply it for the record?

Mr. WHITE LIGHTNING. Definitely. We can supply that for the committee.

Mr. BURDICK. Your testimony states you have watched many of the tribe's Indian cattle operators go out of business over the last several years. It would be helpful to know how many cattle operators you are talking about. Could you give me a number or a percentage of the total to help me put this in perspective? Again, if you don't have it now, would you supply it for the record?

Mr. WHITE LIGHTNING. Yes; I can have Mr. McLaughlin Interject on that.

Mr. MCLAUGHLIN. Yes, Senator; one of the important considerations we want to bring before this committee is that the Development Finance Corporation address agribusiness issues on Standing Rock. You know our resources—you have been there many times—are essentially grass and water and the land and stock cow operations. We think that this corporation can address the agribusiness investment opportunities that we believe are there.

To answer your question, 4 years ago we had 80 Indian cattle operators in business and today we have less than 15, so it has been a major, major disaster for us.

Mr. BURDICK. The reason I am asking these questions, I like to know the economic background in the community because that is going to be a major factor in your institutions, once you get this established.

Mr. MCLAUGHLIN. Yes; exactly right. It goes back to the equity participation issue. I agree very, very much with Mr. Stallings that technical assistance is really critical, but from a business perspective, if the bank has a piece of the action they are going to be watching what happens with that investment, so we believe that equity participation may be just as important as technical assistance, and in the area of agribusiness investment and cattle production and those kinds of investments.

Mr. BURDICK. Let me get into another area of business now, Mr. White Lightning.

Mr. WHITE LIGHTNING. Yes, sir?

Mr. BURDICK. Your testimony also states that the retail stores in your community are owned by non-Indians. Have Indian businesses ever been attempted in the past? How do you explain this lack of involvement in the business of Standing Rock? Why hasn't business taken off in the past?

Mr. WHITE LIGHTNING. Well, there are many responses, I guess, that can be given. One of the previous areas that the tribe had gotten involved in was the OEO back in the early seventies. We had at that time established one store, Standing Rock Foods, Inc., which is still operating. However, since then, since the one started deteriorating or depleting, we have not had an opportunity to establish other stores in the communities. There are several people who do have intentions of starting small stores, but then the capital is not available.

Mr. BURDICK. Of course, what I am saying, this is one of the opportunities that you will have if you have proper financing.

Mr. WHITE LIGHTNING. Yes; S. 721 will provide that particular opportunity.

Mr. BURDICK. All right, Bob. You are the next one. What are some of the human factors that exist that are represented by the statistics in your testimony?

Mr. MCLAUGHLIN. Human factors in the sense of well-being, Senator, of the problems that we have incurred because of the lack of production, the lack of jobs, that kind of thing?

Mr. BURDICK. Yes.

Mr. MCLAUGHLIN. A tremendous human toll in terms of early deaths, high death rates, family dislocations, those kinds of problems. We refer to this group of social problems as social pathology. I believe that these problems are direct result of the lack of productive income that is generated on Standing Rock.

Your earlier question with regard to per capita income is very important. We do have a moderate level of per capita income, but of that per capita income, only about 20 percent or 15 percent is earned income. That was before the cattle operators went out of business, so I would venture to guess—and we will take a good look at this—that out of the income we have per capita, probably only about 5 percent today is productive income.

The measure of success with regard to this kind of institution, for Congress and elsewhere, should be the per capita income increases. You can actually measure that. That is the way productivity is measured in the United States and around the world, so you in Congress will have a good yardstick to see whether this investment and this investment bank is performing.

Mr. BURDICK. Do you think that this new institution that you have testified about is needed, in view of the fact that the BIA provides credit and technical assistance?

Mr. MCLAUGHLIN. That is an interesting question. I was listening to the Lummi witness, and he said that they are all volunteers. Maybe we ought to have volunteers over in the Bureau of Indian Affairs. Maybe we would start getting something done.

Yes; the Bureau of Indian Affairs is a major problem area for us. They more recently, under Mr. Swimmer, have advocated policies which really have no impact out in our area. They may have impact elsewhere, in the urban centers, but it is a real serious problem today. Economic development, although they claim over at the Bureau of Indian Affairs it is a major priority, simply is not a priority out in our part of the country.

Mr. BURDICK. Would this proposed institution replace private banks?

Mr. McLAUGHLIN. No; absolutely not. I will work very closely with commercial institutions. I just met with a bank president 2 days ago in Grant County in North Dakota, and he was pretty excited about this. He said here are some opportunities. Along with the Venture Capital Corporations that have recently been set up in North Dakota and in South Dakota, they look forward to working with these institutions because it will give them a stronger position to make investments in Indian country and elsewhere.

Mr. BURDICK. Your testimony states that Standing Rock Reservation has failed to attract new business because of its isolation and lack of supportive infrastructure. How will S. 721 or the enterprise zone bill address or change those basic problems?

Mr. McLAUGHLIN. Well, in our case it would simply deal with the individuals who already live there—myself, other people who want to become entrepreneurs, managers. We don't feel isolated. We live out there, and this development bank will recognize our unique situation and work with us to establish productive operations, so it is very easy to deal with the people, the indigenous people out there, on good, solid investment projects.

However, I believe that it will also go a long way to attracting industry, be able to explain—you are dealing with a banking relationship—be able to explain to industry, possibly better than we can, the advantages that may exist in the future, especially with regard to the enterprise zones legislation which you introduced, and the opportunities that exist with regard to natural resources and the people who are living in Indian country, the reservation residents. I think that will go a long way to attracting industry, as well as providing investment capital for the people who live out on the land, the Indian people, ourselves.

Mr. BURDICK. Thank you, gentleman.

Mr. WHITE LIGHTNING. Mr. Chairman, I have one question. The chairman—Chairman Murphy—before he left he had asked me what are the possibilities of my asking the committee a question, whether in the S. 721, in the process, have you had any correspondence or anything in the way of a support of the Bureau of Indian Affairs for this piece of legislation?

The CHAIRMAN. We are at this moment working with officials of the Interior Department, and more specifically with the Bureau of Indian Affairs, to encourage the Bureau to be supportive if not neutral. The concerns of the Department and the Bureau are simple but at the same time rather profound, because they are concerned that the passage of this bill would mean a long-term commitment on the part of the Government. As far as I am concerned, that commitment was reached 200 years ago, but there are some who disagree with that. They don't believe that we have this long-term commitment.

Second, the Office of Management and Budget would obviously be concerned about the financial aspect of this because there is a significant amount of money involved, but my response to that is, leave it up to us. We will work it out somehow. We have the Gramm-Rudman bill. We will work it out within the parameters of that measure.

Therefore, you can tell your members that we are doing out best to pave the way for this bill, but in order to come forth with the best measure possible, we invite all of you to provide an input to this. If you know of any way we can improve this, I encourage you to communicate with us.

Mr. WHITE LIGHTNING. Thank you, Mr. Chairman.

Senator EVANS. Thank you, Mr. Chairman.

Let me ask first a couple of questions of the representative from Standing Rock, and then I would like to ask my own Lummi Tribe some of the same kinds of questions.

Do you find that the isolation of the reservation itself or its distance from potential markets and the adequacy of transportation and that sort of thing is a real factor to deal with in the establishment of a number of different kinds of business enterprises on the reservation?

Mr. MCLAUGHLIN. Yes, Senator; it is. It is a major problem area. In the past we have had several potential industrial development projects and they essentially, because of the problems with isolation and the problem with infrastructure, they simply have not considered Standing Rock as a good place to invest in.

There are some potential areas that may be opportunities for us, and that is in the area of agribusiness development. We think that that is a real potential investment area, but the capital required is beyond our means at this point, and that's why this bank is important to us.

Senator EVANS. I am just curious about one thing. There is one kind of industry that doesn't need much transportation, other than a telephone wire or communications. North and South Dakota seem to be hotbeds right now for the development of headquarters of the various credit card and other banking type operations. You know, they can settle any place in the State they want. Has there been any type of contact, either from them or from you, as to whether that kind of banking enterprise, which someone would clearly fund, would want to move there because of the laws that regulate them——

Mr. MCLAUGHLIN. That is correct. In South Dakota, since the legislature adopted their new position several years ago, South Dakota has had major investments such as Citibank out of New York. Again the problem with infrastructure—and I mean education, housing, that kind of thing—prevents them from moving into Indian country, where they may move into Aberdeen, South Dakota or Sioux Falls, as they did in the past. Again we are faced with that kind of situation, but yes, let's explore that opportunity. There may be something there we have not taken into consideration.

Senator EVANS. At least that is descriptive of one kind of business enterprise that doesn't depend so much on transportation or geography. Structural issues which are much harder to change.

Mr. MCLAUGHLIN. Yes.

Senator EVANS. On the Lummi side of things, of course I am familiar—the other members of the committee may not be quite as familiar—with the geographic circumstances of the Lummi Tribe. Do you find that there is any particular difficulty in terms of potential business enterprise, from the geographic location or the transportation access to and from the reservation?

Mr. JAMES. Yes; we are probably closer than a lot of tribes are to main access to the I-5 freeway. We have deep water access. The costs involved in attaining either deep water access or railroad access then become one of the problems that have to be solved because that obviously increases the cost quite substantially on putting any project together. Yes; there are the difficulties, but we also see the opportunities there.

Senator EVANS. Do you find that in your area, at least with current general economic circumstances in the northwestern part of Washington, that deep water access, for instance, which may be really valuable, is also available on a number of other plots of ground outside the reservation. Everybody is trying to utilize their available deep water access, and the competition gets pretty tough.

Mr. JAMES. Yes; there is heavy competition with Whatcom County that we are in, and that was one of the reasons our foreign trade zone took 1 year and 8 months to get through. They wouldn't let one go ahead of the other, so yes, there is competition there. Everybody is after it. You have to see if you can get there first, but we are trying not to look at the tough side as much as looking for the opportunities.

Senator EVANS. As I understand it, both the foreign free trade zone for the Lummis and for Whatcom County have been approved. What is the current outlook for the near-term future in the use of those trade zones? How much interest is there, and does it differ as between the zones set up on the reservation and in the county?

Mr. JAMES. Yes; Whatcom County has, I believe, two or three opportunities already in a couple of their sites on the foreign trade zone. We are negotiating currently with four different companies. There is interest there. You know, one of the things they are concerned about is the stability of our government, and what our labor force availability there is, and that we have everything in place for them when they come on board.

Senator EVANS. I can understand the concern about stability of government. That might suggest that which is probably a concern within the Congress, even; we change from time to time. However, are there any other expressed concerns by these companies you are dealing with that relate more to the fundamental nature of being on a reservation as opposed to being in the county, or because of their concern over treaty relationships or anything of that nature, or is it the more common things that you have just mentioned?

Mr. JAMES. I think there is a little bit of both there. There is some concern over doing some long-term financing, putting some capital in, and not having dealt with Indian governments on reservations before, as to how secure is it. Yes; there are some concerns there.

Senator EVANS. You know that some years ago there was quite an attempt to begin an aquaculture project on the Lummi Reservation. I am curious if you could tell me what the history has been over the last—well, I guess I was first acquainted with it when I was Governor out there, so it has been that long ago.

I was very interested in your testimony on the marketing or taking the next step up in this whole vertical chain from the fishing industry, and I was curious as to whether there are further examples of that which are immediately ahead of you, whether you are examining—well, for instance, I know that in other areas the Japanese have shown an extraordinary interest in salmon roe as one of their delicacies. Is that potential in your operation, or is there further—all of the other kinds of things that go with the fishing industry? How potential is that and how close?

Mr. JAMES. Yes; we have currently on the—you know, I have just mentioned two or three that have come to happen, but we have 26 projects on the front burner, I mean on the very front burner. They are all going, top, number one priority.

Senator EVANS. Before you go any further, are these all oriented in one way or another to the fishing industry, or are these broader than that?

Mr. JAMES. No; they are over the broad spectrum bingo is involved. We have a marina involved, the cold storage processing plant. Atlantic salmon, pen-raised salmon, again the initial intention of our aquaculture project was pen-rearing of fish, and that was back in 1969 and 1970. There is again renewed interest in that, but there is everybody and their brother from Alaska all the way down to California involved in that now. We have done all the studies involved in the acquaculture farming of King salmon and Coho salmon versus Atlantic salmon and are hopefully, maybe this year, going to go into that, if not into full production to the market and supplying the smolts to all the others that hope that that is going to come about.

Senator EVANS. The facilities are still there that were originally set up. Are they not now being used?

Mr. JAMES. Yes; we have, of the total 700-acre aquaculture dike that was there, we are using approximately 10 acres now as a catch and release site and hatchery. Although it is not what was meant for that site, it has returned a lot more than what we had projected the return as an aquaculture site. It is probably the highest productive Coho release site in the State of Washington, as far as survival rates. We have brought that from a 4-pound return fish to an 8-pound return fish in two cycles, so it has been a very, very productive site for not only the Lummi Tribe but for all the users that are involved throughout the harvest chain of that salmon.

Senator EVANS. So you really have essentially the 700 acres as an asset, waiting for the appropriate use?

Mr. JAMES. Yes; 130 acres are being proposed, 65 for a marina and 65 for land-based facilities, support facilities that will go inside that dike, with a deep water channel going out from there.

Senator EVANS. Thank you, Mr. Chairman.

The CHAIRMAN. Just so the record will be correct, did I hear you correctly that during the height of your fishing season, unemployment is 60 percent?

Mr. JAMES. Yes.

The CHAIRMAN. In the 9 months when fishing is not being carried out, it is 90 percent?

Mr. JAMES. Yes.

The CHAIRMAN. What are the unemployment statistics for the Standing Rock Sioux Tribe?

Mr. WHITE LIGHTNING. It is 79 percent.

The CHAIRMAN. This is the annual average?

Mr. White Lightning. Yes; and that is a Bureau of Indian Affairs statistic, Senator. It may be a little higher than that. I suspect it is, but the rest of the employed are transfer payments, so it is disguised. There is very little productive employment.

The Chairman. The numbers are mind-boggling because we deal with 7 percent unemployment nationally, or 12 percent unemployment for the blacks, and your best is 60 percent?

Mr. James. Or 65 percent, yes.

Mr. McLaughlin. What is even of more concern to us is that the Bureau of Labor Statistics indicates that Standing Rock or Sioux County has an 8-percent unemployment rate.

The Chairman. How much?

Mr. McLaughlin. An 8-percent unemployment rate.

The Chairman. An unemployment rate of 8 percent?

Mr. McLaughlin. Yes; for example, Congress has passed a bill called the labor-surplus provision. We do not qualify for that because our unemployment rate is not high enough.

The Chairman. Was it a typographical error, or how did they come to that conclusion? You conclude it is how many percent?

Mr. McLaughlin. We conclude it to be 80 percent.

The Chairman. You say 80 percent, and the Bureau of labor Statistics says 8 percent?

Mr. McLaughlin. Yes; 8 percent. The reason that is done is, that once you fall off the end and fall into the structural unemployment trap, you are just no longer there. People are only considered unemployed when they are receiving unemployment checks. After that, they just disappear. This is a national problem, so your labor statistics really aren't accurate as to what is going on out in the country, and especially in Indian country.

The Chairman. Well, I don't know if S. 721 can help you to any significant degree, but we are going to try our best.

Mr. McLaughlin. It can, Senator. The thing is, is that Mr. Burdick—I believed it was Mr. Burdick, Senator Burdick—asked a question. Right now the transfer payments are about $2 billion a year. If we are successful with this and we have investment, down the road 15 or 20 years we can decrease the rate of increase of transfer payments. I think that when Congress studies the appropriations part of this bill, that they ought to have possibly one of your next witnesses, Dr. Trosper, take a look at how in the long run this is more cost-effective for the Congress and for the good of the country.

The Chairman. Thank you gentlemen very much.

Senator Evans. Mr. Chairman.

The Chairman. Senator Evans.

Senator Evans. You say that for your reservation it is $2 billion in transfer payments?

Mr. McLaughlin. No; across the country.

Senator Evans. That's what I was wondering.

Mr. McLaughlin. Yes; that's all——

Senator Evans. That's for the whole country?

Mr. McLaughlin. Yes; but that's about what you are spending. It's a lot of money.

Senator Evans. Do you know how much that would translate into, say on your reservation, as compared with how many people?

Mr. McLaughlin. It runs around $6 million in direct transfer payments, and I imagine there are other transfers that come in.

Senator Evans. That is for a reservation of what population?

Mr. McLaughlin. We have 9,600.

Senator McCain. Mr. Chairman, I would just comment that again the numbers are distorted by the fact that the employment on most reservations is provided either by the Federal Government or the tribal government, and as we mentioned that is simply taxpayers' dollars in another way. I think it reinforces the urgency of passage of this bill and the economic enterprise zone bill that we have discussed and the following witnesses will discuss.

I am particularly appreciative for the very concise and lucid statement of the problem and a proposed solution by Mr. Stallings. I think that witnesses contribute a great deal and I appreciate them being here.

Thank you, Mr. Chairman.

The Chairman. Gentlemen, we thank you very much.

Mr. McLaughlin. Thank you.

The Chairman. Our next panel consists of the financial advisor to the Council of Energy Resource Tribes of Denver, CO, Mr. Eric Natwig; the economist of the Confederated Salish and Kootenai Tribes of Pablo, MT, Ronald Trosper; and a member of the law firm of Gover, Stetson and Williams, Mr. Eric Eberhard.

Gentlemen, welcome. Will the first witness be Mr. Natwig?

Mr. Eberhard. Mr. Chairman, if I may, my name is Eric Eberhard. I have been given the duty of introducing briefly the other panel members.

The Chairman. Fine.

Mr. Eberhard. We also have a panelist who was to appear with us, who unfortunately is rather seriously ill in Albuquerque, NM. If I could, I would like to just take 1 minute to tell you a little bit about him because he played a very large role over the years in the development both of the concepts and the actual effort to put before the Congress, in 1981, a concept very similiar to those that you have in S. 721.

That gentleman is Joe Baca. He is a member of the Santa Clara Pueblo. He holds an MBA degree from the University of New Mexico and has about 20 years of experience, what I call nuts and bolts experience, trying to promote Indian economic development and assist individual Indian businessmen. It is regrettable that Joe couldn't be here with us today, but I would hope that at some future point the committee will be able to have the benefit of his views both on S. 721, S. 788, and any other initiatives that you may undertake.

Here on this panel to my right is Dr. Ronald Trosper. He holds a Ph.D. degree from Harvard University in economics. He has taught economics at the University of Washington and at Boston College. He has been employed in the past by the Council of Energy Resource Tribes, and currently is the tribal economist for the Salish and Kootenai Tribes of the Flathead Reservation. He served on the American Indian Policy Review Commission and played a very large role in the late seventies and early eighties in the design of what was then called the American Indian Development Finance Institution.

On my left is Eric Natwig. He holds an MA degree from Brown University. For 5 years Mr. Natwig was an economist for the Navajo Tribe, and at one point I believe was the director of the Navajo Tribes's economic development division. Most recently he has been heavily involved in an attempt to organize—and, I am pleased to say, a successful attempt—a commerical bank at Blackfeet in Montana, and over the years has been involved in an effort to organize and get off the ground a BIDCO for native Americans in California. For the past year or so he has been very active with the Council of Energy Resource Tribes, assisting the member tribes in their efforts to acquire capital and get into the various kinds of business activities.

Very briefly, I myself hold a Master of Laws degree from George Washington University, and for the last 15 or so years have been engaged in the practice of Indian law in most all of its aspects, primarily for the Navajo Tribe and its individual members, and to some extent for the Pueblos in New Mexico.

With the brief introduction of who we are, I would like to turn at this time to Mr. Natwig, who will discuss financial and institutional aspects of Indian economic development. We would like to follow that with Dr. Trosper, who will talk about some of the economic asoects of Indian economic development, and then come back to me to talk a bit about the legal constraints that are involved in Indian economic development.

STATEMENT OF ERIC NATWIG, FINANCIAL ADVISOR, COUNCIL OF ENERGY RESOURCE TRIBES, DENVER, CO

Mr. NATWIG. Mr. Chairman and members of the committee, my name is Eric Natwig. I would like to thank you for this opportunity to appear before you to share my views which are based upon experience I have gained over 15 years, working for a number of Indian tribes and organizations. The perspective I bring to these bills on Indian economic development, and in particular S. 721, is illuminated by my past 4 years working to organize tribal capital for investment in tribal and individual Indian businesses.

As Eric Eberhard said, I had the opportunity, working for the Council of Energy Resource Tribes, to be one of the organizers of the Blackfeet National Bank. It has been a 2½ year project, and I believe I can say that probably in 3 months there will be a local financial institution that will organize the local deposits and tribal capital for local business development.

A couple of years before that, I worked with the United Indian Development Association and Steve Stallings to help organize what is called a CALBIDCO. It is a non-depository, long-term lender, specializing in Government-guaranteed loans to Indian-owned businesses. I feel that what we have learned by creating banks and nonbanks can be tied into the development finance institution, to organize local Indian capital toward development as well.

As a member of the team which designed the American Indian Development Finance Institution, I prepared a paper on the institutional barriers to financing projects which is, in fact, in this compendium of papers that has been submitted to you. I will briefly summarize the literature that is on this table here, which over the years has reached the same conclusion.

Indian economic development, at least as I have been aware of its since 1969, has been a subject of several congressional initiatives and two papers by the General Accounting Office. The Joint

Economic Committee in 1969 analyzed the barriers. The General Accounting Office concluded that business development needed to be improved because the way the Federal Government went about it. With categorical grant programs had been ineffective.

The Presidential Commission on Indian Reservation Economies also analyzed the barriers to development in order to develop new Federal policy. I believe some of their conclusions having to do with tribal enterprises do not actually help the tribes to develop their economies.

The barriers in the literature, the economic barriers, really have to do with the economics of Indian lands. They are remote. Their resource bases tend to be marginal. Transporation access is difficult, and they are thinly populated, and Indian management skills are only recently becoming significant. Therefore, in this environment establishing truly profitable businesses has been, in the past, very difficult.

The institutional barriers have to do with the legal and administrative structures that are different from other communities. I believe most people who deal with Indian economic development are familiar with the fact that the trust status of tribal lands makes it difficult to mortgage these lands as collateral, and tribal immunity from suit, tribal court jurisdiction, and evolving tribal taxing authorities have caused many businesses to find Indian reservation investment difficult.

The tribe's role in development in the past has been a subject of debate, I believe. In the past, the conflict betweeen the tribal business' need for flexible, fast decisionmaking and its government's responsibility for deliberation of issues has forced the tribes to move slowly on business opportunities and to lose them. I believe at this point in the tribes' evolution, that there has been achieved a sophistication and an appreciation of how to manipulate the current financial institutions that, if augmented by the kind of capital proposed in S. 721, may in fact be the beginning of a new era in Indian business development.

While tribes are remote, there still are existing resources of coal, oil, gas, and vast agricultural lands which could become the basis for manufacturing activities and synthetic materials and textiles and food processing. I think it is apparent, as the other witnesses have testified, that—for example, having many business ventures on the front burner—that there are definitely opportunities to be realized.

The notion of "patient" capital I believe, as the previous witnesses testified, is what the funds represent. It is investment capital. I believe what is significant about it is the fact that the bill calls for tribal investment in the financial institution, and what I have found working for a number of tribes looking at developing businesses, is when there is a tribal investment in the business, a financial commitment to the business, there appears to be a much stronger likelihood of long-term success for the particular enterprise. I believe that S. 721 provides a financial institution that will provide that tribal investment.

It is, though, of course, only one piece of the puzzle. In addition to other bills proposed by this committee such as for the enterprise zones, I believe a way can be structured to make tribal labor cost cheaper than foreign labor costs by a tax incentive, which may be a more significant investment incentive say, than some other tax incentives. Also, I believe an increased investment in transportation infrastructure to tribes will make some of the past investments in the industrial parks more productive.

I think, taken together, these incentives and other business investment vehicles, combined with the readiness of tribes to really pursue business development, makes these initiatives very timely.

Thank you for your time.

[Prepared statement of Mr. Natwig appears in the appendix.]

The CHAIRMAN. Do you think that the measures that are pending are realistic?

Mr. NATWIG. I believe--when you say "realistic," could you explain, please?

The CHAIRMAN. Are they tailored for the problems that you have cited?

Mr. NATWIG. I believe they are. Yes, sir.

The CHAIRMAN. Thank you.

STATEMENT OF RONALD TROSPER, ECONOMIST, CONFEDERATED SALISH AND KOOTENAI TRIBES, PABLO, MT

Mr. TROSPER. I am very pleased to be before the committee, and I thank you very much for the opportunity to present testimony. I am going to summarize the written testimony and focus on just two main issues.

The CHAIRMAN. All of your full statements will be made part of the record.

Mr. Trosper. I was on the staff of the American Indian Policy Review Commission Task Force Seven. "Reservation and Resource Protection and Development" was the title of the task force. On that task force we visited a random sample of reservations and collected quite a bit of information, and came up with a three-word way of summarizing or comprehending the problem that we saw. That is that on a reservation, economic development occurred when you had three conditions: control, capital and management.

In the years since then, in working with the American Indian Development Corporation on the idea of a finance institution, it seemed to me that these three conditions remain useful. What I want to do is ask a question that the Lummi witness asked earlier: In implementation of economic development, can we proceed with just one or two of these in place or do you need all three? What kind of timing is possible?

This is relevant to the issue before you now because a finance corporation would be introducing capital or, if you structure it properly, capital plus management assistance. A general answer to this question I think is difficult because tribes are so different. My tribe, the Salish-Kootenai Tribes, are relatively well off in the fact that we own considerable resources. Because of this, we have financed much of our economic development with our own funds and have not had the capital problem that lots of other tribes have.

For that reason we can ask, well, if you have capital and one of the other two, what happens? We have had two patterns. One is where control and capital together has led eventually to good management and a successful enterprise. In this case control was control of the lodgepole pine resource, lodgepole pine that is small enough to make rails and fencing material. The Bureau of Indian Affairs believed this portion of the timber stock was worthless, and they had really little objection to our utilizing it, so tribal members harvest lodgepole pine and take it to a mill which finishes the product, peeling, drilling, and doweling it. We have combined tribal capital with some money from the Economic Development Administration. We have developed management through experience and created a successful firm.

Similarly, we have taken a small creek which no one was using and put a small-scale hydroelectric facility on it, another case where we had control and brought capital to bear.

For some of our main resources, however, control becomes a real problem, in that the resource is either leased to others or sold, in the case of saw logs, for stumpage, and it has been quite a struggle to get control. We have a hydroelectric site called Kerr Dam, that we had to go to court a considerable number of times just to get the rentals increased. Then finally in 1985, after considerable negotiation, we negotiated a joint contract, a joint license, with the Montana Power Company, which the Federal Energy Regulatory Commission approved, and now we are on a schedule. We know that we will be operating and controlling the dam in the year 2015. Therefore, I would say that management in the form of technical work by lawyers got us to the point where we will be able to control that resource, and then we will be able to get to work, participating in the power marketing and hydroelectric production.

Those are two ways in which, in implementation, you begin with two of the three conditions and develop the third—in the one case control and capital and develop management, in another case capital and management and then we proceed to develop control.

Now the second question I would like to address—yes?

The CHAIRMAN. May we have a short recess?

Mr. TROSPER. Yes.

The CHAIRMAN. That bell is calling us to vote.

[Recess taken.]

The CHAIRMAN. Shall we proceed, Dr. Trosper?

Mr. TROSPER. Certainly. I had just mentioned that in a tribe, when one wants to do development you need to combine control and capital and generate management for that, or begin with management and capital and develop control. This relates to this Development Finance Corporation bill because the corporation will be providing capital, and you shouldn't expect this to be a single solution. As other witnesses have said, an integrated solution is needed and some of the problems on reservations need to be attacked from a variety of directions.

Now the second major question that I want to address in my oral testimony is, what justifications can be given for creating a new institution to assist in capital formation? One answer is this: 1987 is the 100th anniversary of the General Allotment Act. In 1887 Congress set in process a policy which broke up reservations, decapitalized communities, transferred resources out, and contributed greatly to the problems that we see on reservations today. It would be a good celebration of that 100th anniversary to put some programs in place that would reverse that period. The fact that it has taken us 100 years to get where we are today suggests that it won't happen overnight, that we get some of the problems cured.

The Chairman. What was the act you referred to?

Mr. Trosper. The General Allotment Act. The theory behind the General Allotment Act was to make Indians into farmers, and so Indians were given plots of land—80 acres, 160 acres—and the rest of the reservation was then opened for homesteading on some reservations. Some were homesteaded, some weren't.

The Chairman. Homesteading by non-Indians?

Mr. Trosper. By non-Indians, yes. On my reservation, for instance, 25 percent of the people on the reservation are Indians or in families of Indians and 75 percent are non-Indians. The agricultural land, most of the irrigable land and good agricultural land is owned by non-Indians, and the Flathead Indian Irrigation Project delivers irrigation water to predominantly non-Indian-owned farms.

The Chairman. Under the General Allotment Act, the Indians deliberately received the worst, nonarable lands?

Mr. Trosper. Not always. Some Indians were able to choose their allotments and they got arable land. In our reservation from 1910 and up through the 1920's, the Indians sold their arable land to non-Indians very often. We had a period of forced patents, where Indians with trust patents, involuntarily had their land taken out of the Federal trust and put onto the county tax rolls. The Indians discovered that their land was taken out of trust status when they received the tax bill. We now have a checkerboard situation. In fact, our reservation is sort of a large donut, where the land on the outside is the forested land, and that is still in tribal ownership, and the central part is the arable land, and that is in non-Indian ownership, but there is a checkerboard. There are Indian lands in the irrigable area.

The Chairman. You have just given this committee added incentive to move ahead this year. Please proceed.

Mr. Trosper. Now the second justification that I have in mind is the effect on the Federal budget deficit when you put people to work. This report that came out, the Report of the Task Force on Indian Economic Development has a chapter in it on the proposal for enterprise zones which calculates the welfare impact, the impact of taking people off of welfare when they go to work, and it is quite dramatic.

We are in the process of expanding our post and pole operation, and we have received some money from the Federal Government. We have $355,000 as a grant from EDA, and Montana has an investment fund that is going to lend us $319,000. The total of these is $674,500.

Now we are going to put 45 people to work, and if you take the impact—if these 45 people are unemployed, and we are going to be putting fewer people to work than we have in total unemployed, we have many more than 45 unemployed—these 45 full-time jobs, using the task force numbers, will generate a change in the Government deficit of $5,955 for each job. That is, the decrease in transfer payments and the increase in tax payments will be that much per job. That works out to $268,000 a year. The State of Montana and the Federal Government have invested $674,000. They will have their money back in 2½ years, a 2½-year payback period. That is a very dramatic return.

Now the Federal system, the budget climate right now, you are not allowed to raise taxes and you are not allowed to decrease welfare payments, but if you invest in Indian country in projects like the Flathead post and pole expansion, in future years—you might record that initial expenditure as an expense this year, but in future years there will be a decrease in the budget deficit, but it won't be something that your statistical system will collect, which is a problem, but the rate of return is really dramatic when you put people to work.

The CHAIRMAN. Your proposal is so logical, it will not be accepted by the Senate. [Laughter.]

That sounds facetious, but it is not. We know, for example, that Internal Revenue inspectors or agents bring in more than 10 times their salary in fines and seizures. The same is true for Customs inspectors. Instead of increasing the numbers, we decrease them to stay within the budget, so more people get away with their crimes, but logic is very difficult to understand here.

Mr. TROSPER. Well, that is interesting. I thought it was a good argument. [Laughter.]

The final point that I want to make relates to the magnitude of the need. In the compendium here there is an estimate that I made, using general figures, that $4 to $8 billion is the size of the capital gap. If you were to increase that, change its prices from 1979 to the present, it would be a $5 to $10 billion figure, depending upon what method you use.

That is a lot bigger need than what the bill proposes for capitalization, and I think I would like to have a look at what the plan is. I do think that you don't want to start a new institution large. There is a problem if you start too big. That institution has to grow and develop its own expertise, but you should keep in mind the size of the problem compared to the funding that is proposed.

That is the end of my oral testimony.

[Prepared statement of Mr. Trosper appears in the appendix.]

The CHAIRMAN. As an economist, I am certain you must have looked into the employment picture in the Indian country. Is the present situation similar to that which existed, say, 20 years ago?

Mr. TROSPER. You mean has there been a change?

The CHAIRMAN. No; is there a trend? Was there a time when the economy was better and the unemployment numbers were lower, or has it always been high? I have been told that they range, in reservations, from 29 to 90 percent.

Mr. TROSPER. Well, let me answer for our reservation. We are at the low end as far as unemployment rates. They are probably around 20 or 25 percent, and that was what was reported in the 1980 census. We don't have a program of collecting data.

In the last several years since that figure was calculated we had a decrease in the timber market. The whole lumber industry went into a tailspin on the reservation, and similarly with agriculture and some of the jobs derived from that, and some of the Federal programs, so we are worse off now than we were a short time ago. I have a feeling in the late seventies things were better than they are right now. There are more people out of work.

The CHAIRMAN. Thank you.

Mr. Eberhard.

STATEMENT OF ERIC D. EBERHARD, ESQ., GOVER, STETSON AND WILLIAMS, WASHINGTON, DC

Mr. EBERHARD. Thank you, Mr. Chairman.

When you begin to look at what people call the legal barriers to Indian economic development, you can develop a rather long list. There are really only three or four factors, though, that cause any amount of difficulty, and I believe there are very practical solutions with respect to those three or four factors.

Most commonly people look at the trust status of Indian land and say that is a terrible problem. Then they look at the jurisdictional maze that you will find in any given reservation context, between tribal, State, and Federal authorities; and then they look at the sovereign immunity of tribes. In some situations you will also run into legal problems that surround powers of taxation and questions of water rights, who owns what water.

I will come back to the first three of those in 1 minute but I would like to suggest to you that the more important legal barriers have actually stemmed from rather inconsistent but historic Federal policies with respect to the tribes. If you go back to the very first Congress, Congress went on record in the Northwest Ordinance and said one of the foremost duties of the United States is to preserve and protect the property of Indian people, and to try to maintain peace between the United States and the tribes. So 2 years later, in 1790, the Congress enacted positive legislation to prevent the loss of Indian lands to the States and to non-Indians. Congress clearly recognized in those acts both an extraordinarily high duty toward Indians, which I believe you referred to here earlier as a bargain that was cut 200 years ago, and a real necessity to preserve that land base as the future means for tribal self-sufficienty.

What happened, though, following those acts is very, very instructive. There is a period of time that we in the law call the treaty period, that ran until about 1871, where the United States at the direction of the Congress dealt with tribes sovereign to sovereign. Part of that process ended up creating rather substantial reservations for many of the tribes, and in the tribes giving to the United States virtually 2 billion acres. Most of what is now non-Indian-America was acquired during that period, through those treaties.

Then in 1887 the law that Dr. Trosper has referred to was enacted, the Allotment Acts. Over the course of the ensuing 50 years—well, when those laws were passed, 140 million acres were in Indian hands. In 1934 when the allotment era officially ended through the Indian Reorganization Act, there were only 40 million acres in Indian hands and, as Dr. Trosper notes, most of that taking was uncompensated, and most of that talking today is reflected in the fact—particularly in the Great Plains but in other areas of the country as well—in situations where the majority of residents on reservations are non-Indians. Many of those non-Indians, right or wrong, receive the benefit of many of the programs intended to promote economic development for the Indian residents of that reservation or those reservations.

Happily, the allotment process was stopped. In fact, in recent years Congress has now enacted laws to try to promote consolidation of the Indian land base again. I think that is the right direction to go, and certainly Congress should be commended for doing that.

You have a similar situation when you look at Federal attempts to promote self-government. I think you have heard from some witnesses already today, and you will hear from some others in the next panel, that tribal governments are a key to the development possibilities in Indian country. In many, many tribes there simply is not going to be meaningful development unless the tribal government is a real player in that process.

Well, if you look at what has happened here, again the signals have been very mixed. You have the Indian Reorganization Act of the 1930's, an attempt to bring some—impose some, I should say—structure on tribes so that they may begin to be self-governing in a non-Indian sense. Then in the 1950's you have the termination process—simply wipe out tribal governments. "Tribes as tribes ought not to exist" became the policy.

Then more recently the self-determination process, and we might look at that a bit. I know the committee is going to be looking at it later this year, but some serious questions exist about self-determination when you have 200 and 300 pages of regulations that govern a simpler contract, and we call that self-determination. Again, we have very mixed signals from the Federal Government as to what the proper role of tribal governments is to be in the area of self-determination.

The **Chairman**. These 300 pages you speak of, are they administrative rulings or statutory law?

Mr. **Eberhard**. Published in the Code of Federal Regulations. I may have overstated the number of pages. I should go back and count them, but the regs are voluminous with respect to what it takes to implement the so-called Self-Determination Act. I think anybody who has negotiated one of those contracts can tell you that it is far from a simple matter, and in many instances tribes end up coming to people like me, non-Indians, for assistance in those negotiations simply so they can get a contract and get on with what they believe to be the business of self-governance.

The **Chairman**. How would you cure that?

Mr. **Eberhard**. I think there are some possible models around. There is the Uniform Co-Op Agreement Act. I don't commend that to the committee as the sole or the only way to do it, but if you take a look at that act, it is a couple of paragraphs in the United States Code.

It is very simple. Any function that is performed by the Federal Government can be performed by a unit of State or local government through an agreement between the appropriate Federal agency and that State. There have never been any sizeable regs published for that act, and there are ongoing agreements between the Federal Government and the States, negotiated on a case-by-case basis.

I have negotiated a few of those for tribes. They turn out to be 2-page contracts, and the real problem getting them negotiated is, the agencies have never thought of the idea of using this legal mechanism to deal with tribes.

The CHAIRMAN. Would you provide this committee with a memo on that?

Mr. EBERHARD. Yes, sir; I would be happy to.

You find a similar pattern when you look at Federal funding for Indian programs. In the early part of this century virtually all Federal funds flowed through the Bureau or its predecessors, and there really was not a whole lot of Federal money available on the reservation.

Then in the sixties and seventies there was just a massive infusion of Federal money, through OEO, through EDA, through HUD, the Bureau itself, lots and lots of money, in many instances so much so fast that nobody knew what to do with it, but certainly the game was to get your share of it. That is simply human behavior, Indian or non-Indian.

But the point is that more dependency was created. Very few incentives were put in place to encourage the kind of self-sufficiency that your bill and Senator McCain's bill would now seek to address.

There were during that same period two acts that I think did have some incentives in them and did encourage tribes to begin to think about what it really takes to build an economy. The Indian Finance Act, particularly as it has been amended over the years, contains some of those kinds of incentives. The Urban Development Action Grant program, with its requirements for private sector involvement, contains some of those kinds of incentives and promotes some of the basic notions that have to be there for tribes to effectively develop businesses and effectively develop sustaining economies.

With that as kind of a backdrop, I personally believe that S. 721 and S. 788 are good steps for promoting Indian economic development. As Mr. Stallings said a while ago, there is no magic pill. It is going to take a whole array of actions by the Congress to really do the job, but these are good steps.

Part of the reason I believe that, is that I believe they are consistent with what Congress set out to do 200 years ago. I don't think they undermine the fabric of the relations betweeen tribes and the United States. Indeed, I think ultimately they build on that relationship. They don't seek to take from Indians trust lands, for whatever reason. They don't seek to promote non-Indian jurisdiction over Indians, for whatever reason, and they ultimately don't seek in any sense to divest tribes of the tools they need to be self-governing. One of those tools, to be quite candid, is the notion of sovereign immunity.

You know, if you look at the United States, the United States until very, very recently in its history claimed virtual and total immunity in its conduct, both with respect to other Nations. The United States is a 200-year-old entity at this point. Most tribes in the modern sense are 40, 50, 60 years old. Most tribal governments have only been around that long, in the sense that we think of the U.S. Government. There is a process that has to occur, a maturing, if you will, of those tribal institutions. Sovereign immunity is an important safeguard to allow that process to occur.

I suggest the same with respect to trust lands. Trust status for those lands ensures that they will not be alienated out from under the tribes, whether that is through an Allotment Act or through any other legal process. That will not happen. The land base will be secure.

The same with respect to jurisdiction. I didn't go into any of the, what we might call the twists and turns of Federal policy on jurisdiction with respect to the States, but it bears noting there have been those twists and turns. We are all familiar with what is known as Public Law 280 and the fact that in some States, States do enjoy a measure of jurisdiction over reservation lands, and in other States, particularly in the mountain West, States were required as a condition of entry into the Union to disclaim any jurisdiction over Indian lands, so you have very inconsistent signals there, too.

Tribes, I believe, can, should and do today for the most part exercise all of the necessary powers and authorities to be treated as a sovereign, whether that is through their tribal courts, through their legislative bodies, or through their executive officers. There is no reason, and I believe that the chairman and Mr. McCain recognize that because of the way your bills have been drafted, to change those existing jurisdictional relationships. You can promote Indian economic development without undermining these cornerstones of Federal Indian law.

Mr. Stallings also made another very important point in his presentation, when he indicated that when you walk into a corporation or a bank and you start talking about a particular Indian business venture, they are not used to the idea that it takes some time. They want to do the deal, and they want to do it now. It either rises or falls on its merits. "We shouldn't be spending time," would be their notion, "talking about jurisdiction or talking about trust status lands. Let's do the deal. Time is money."

Mr. Natwig refers to the capital that S. 721 would provide as "patient" capital. It is indeed that. Mr. Trosper and others refer to the need for technical assistance and management assistance. That is very true. It will take much more time to bring together the parties in a given Indian business deal than it will in any other context in this country. That has to be recognized, it has to be accounted for, and with that recognition, all of these so-called barriers can be overcome.

Trust status of lands—there are other ways to bring collateral to the deals. Leasehold mortgage interests are now becoming rather common. Sovereign immunity—there are such things as tribal waivers of sovereign immunity, to the extent that assets are involved in a particular deal, without waiving in a broad sense tribal immunity. Conflicting jurisdiction—some tribes have resorted to private arbitration to resolve those kinds of concerns. Other tribes have agreed to use State law in their tribal courts in a particular business deal.

The point about all this is that with some patience, with some common sense, some hard work and some willingness—and believe me, the willingness is there at the Indian end—there can be economic development in Indian country, and there will be even more economic development in Indian country if your two bills can be passed through this Congress in substantially the form that they now sit.

Thank you.

[Prepared statement of Mr. Eberhard appears in the appendix.]

The CHAIRMAN. I am intrigued by your suggestion that the tribal governments as they presently exist under our laws are, I believe you used the word "immature"?

Mr. EBERHARD. I said they needed some time to mature. You are talking about relatively young institutions. Just as an example, one that I happen to be very familiar with, the Navajo Nation, the present government really did not begin its operations until 1936, fully 150 years after this Congress was initiated by the Constitution. You have a 150-year head start.

The CHAIRMAN. You mean they are not ready to do business?

Mr. EBERHARD. They are ready to do business. I don't mean to imply that. I mean there is a learning process that goes on in any entity, whether it is a private business, a government——

The CHAIRMAN. How would you accelerate the rate of maturity?

Mr. EBERHARD. I think that is actually occurring at this moment. I think partly it is a generational thing.

The CHAIRMAN. I suppose we can debate that question as to whether they are ready and mature. After all, Hawaii has been a State now for just a few years, since 1959, and I would like to believe that on day one we were ready and mature.

Mr. EBERHARD. And I'm sure you were. [Laughter.]

The CHAIRMAN. The Indian governments that I have had any contact with have impressed me greatly. They may not have the resources that most governments have, but the drive is there and I think the intellect and intelligence necessary to cope with problems are all there.

Do you believe that these two measures would be just steps or provide significant assistance?

Mr. EBERHARD. That's a tough one to answer, because in part it depends on what happens after they pass the Congress, how well they are utilized, and that is really very hard to predict. I think that they would be very significant, but until there is some experience with them as laws on the books, that is going to be hard to know.

The CHAIRMAN. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman. I know that the hour grows late, and I will try to be very brief.

I think—and I wouldn't put words in Mr. Eberhard's mouth—but I think what he meant by this business of maturity is that there are still some differences among the tribal governments in adjustment to the fast pace of the modern-day free enterprise system, I think is the experience that I have had with them. Many of these tribes have been burned rather badly by people who came in and exploited them and their assets, and they have a tendency—an understandable tendency, I think—toward great caution, which leads to a much longer period before decisions are made than perhaps outside of Indian country, so to speak. I believe that's what you were getting at there, wasn't it, Mr. Eberhard?

Mr. **EBERHARD**. Well, if I may, what I was specifically referring to was the notion that sovereign immunity at the tribal level is a barrier to economic development, and the implicit assumption that therefore it should be somehow taken away. What I was suggesting was no, that would be the wrong course. Sovereign immunity is an important part of the developmental process that this Federal Government through over the last 200 years and that the tribal governments are now going through themselves, and indeed the State Governments. From State to State you find a wide diversity of treatment with respect to that issue.

Senator **MCCAIN**. I would just like to address one question to you and the other members of the panel who have contributed a great deal, I think, to this committee in its deliberation. That is, there is a widespread belief among some businesses that it is different if not impossible to do business on Indian reservations because of the vagaries of tribal government.

We have examples of a new tribal government being voted in and an increase in taxes being levied, or a requirement for increased Indian employment, or outright ejection of the business from the reservation because of some conflict with tribal authorities. Admittedly those are very rare occasions, but it doesn't take long before the horror stories, so to speak, spread.

I would like for the three of you to briefly address if indeed that isn't the perception out there among some aspects of the business community and, how do we address that issue, particularly since I think a lot of it is based on false perceptions?

Mr. **EBERHARD**. I personally think it is largely based on false perceptions. It is kind of interesting. If you look at the political shifts that occur in the United States, in the Federal Government, for that matter, take a look at the kinds of transformations that occurred in this Government in the 1930's and have occurred again in this decade, I have really not been exposed to it—it may be a fact—but I haven't been exposed to lots of people saying, "Gosh, the United States is not a good place to invest because they were undergoing these political transformations in the thirties and the eighties."

In a sense it is understandable because people generally do not know much about reservations, don't know much about tribal governments, and again what all that leads to is an extraordinary need for patience and a willingness to be educated to the real facts. Among business people, non-Indian business people, where that willingness exists it is more than possible to do business. Where minds are closed or are not willing to be opened, that is where the difficulty arises. That has been my experience.

Mr. **TROSPER**. Well, the nature of the misperception often is that people will look at an Indian tribe and compare it to an ideal, rather than comparing it to other governments, other local governments. In other words, tribal governments are held to higher standards. That is part of this misperception that we see. Another part is that, at least with my tribe and with several others that I know of, the tribal leaders' vision extends ahead over a number of years longer than other American governments.

When we settled on the joint license with Kerr Dam, the council insisted that I prepare a 30-year projection of the tribal budget, in order for them to decide what they are going to do with their budget. I protested, I didn't like doing a 30-year projection. They insisted that, "Well, all right, we know you are going to make assumptions, but we want to know what the long-term consequences are of the particular budget that we pass," and so I did a projection of what the tribe's budget was going to do, and they cut the current year's budget in order to avoid a developing deficit 3 or 4 years down the road.

I think if you will go out and look at a lot of tribal governments, you will see that they do have a long view. Some of the hesitancy that occurs is because tribal leaders remember the fifties. They remember the termination period, and they will look at a law and they will say, "Suppose that Washington, DC changes its course and it starts to go in toward termination. Will we regret this decision?" They get cautious at that point.

This is another way of perception, and that is that you are looking at a government that has to be prepared to resist attack every now and then. Other governments in this country don't have that problem, so there is a difference in attitude because there is a difference in treatment.

Senator McCain. Thank you.

Mr. Natwig. I think there is something else. In my experience there has been a significant increase in sophistication and confidence and commitment to doing business among a number of tribes, not all tribes. I think it is difficult to make generalizations about tribes across the board, but another thing I think that has been happening is new ways of doing business.

Tribes are now looking at raising capital through limited partnerships. There are some tribes in the Northwest who have developed contracts between themselves and their enterprise holding companies, and then contracts between their enterprise holding companies and specific enterprises, and then contracts between those and management companies. I believe that the legal structures are getting much more sophisticated in protecting outside investors and management from outside, so I think there is a lot coming together that makes these bills very timely in terms of the tribes' commitment to do business.

Senator McCain. Thank you.

Thank you, Mr. Chairman.

The Chairman. Thank you very much. I look forward to working with the three of you. I can assure you that I learned a lot, and I expect to learn more, and I look forward to receiving your memo, sir.

Mr. Eberhard. Thank you, sir.

The Chairman. Thank you very much.

Mr. Trosper. Thank you.

The Chairman. The third panel consists of the Honorable Phillip Martin, chief of the Choctaw Indian Nation, Philadelphia, MS; the Honorable Robert Olney, member of the tribal council and the chairman of the timber, grazing and overall economic development committee of the Yakima Indian Nation of Toppenish, Washington, and he will be accompanied by Mr. Ray Olney, chairman of the legislative committee; Mr. Al Henderson, chief, Office of Business and Economic Development, the Navajo Nation, Window Rock, AZ; and

Mr. David Lester, executive director, Council of Energy Resource Tribes, Denver, CO.

Gentlemen, welcome. Who will start the proceeding?

STATEMENT OF PHILLIP MARTIN, CHIEF, CHOCTAW INDIAN NATION, PHILADELPHIA, MS

Chief MARTIN. Thank you very much, Mr. Chairman.

The CHAIRMAN. Chief Martin.

Chief MARTIN. My name is Phillip Martin. I am the chief of the Choctaws in Mississippi. Briefly I would like to—you have already introduced the panel, but I want to add onto that and say that we do represent the tribal government in one form or another.

Mr. Henderson is the director of their economic development, the Navajo Nation, and he has some big ideas on how he is going to bring jobs and prosperity to the Navajos. Then we have the Yakima Nation, a member of the tribal council who is also very much interested in many aspects of these presentations. Then Mr. Lester, who has been around a long time, both in working from the private sector and government as well as with Indian tribes, now as the executive director of all these tribes that have resources, mineral resources, in the country.

Now you do have my written statement, so I am not going to spend too much time reading the statement but I will say a few things in regard to it, highlight some of the things that are in the statement.

The CHAIRMAN. Your statements will be made part of the record in total.

Chief MARTIN. Yes, sir.

Now I am here because I am very much interested in development of people and Indian tribal governments. I have been honored to work for my tribe for nearly 30 years, and I have come to respect and understand the need for tribal government as an essential part of economic development, reservation development, human development, resource development of a reservation. I strongly believe that no development can take place on a reservation without the involvement and the support of the tribal government and its elected officials.

I know today that the tribal governments are being attacked as an obstacle to progress, but I do not believe that, because I have the privilege of working this length of time, and we started with almost nothing in terms of resources. We don't have mineral resources. We have very little natural resources—timber that yields around 1 million board feet a year. There is not much there that you can depend on, but we do have human resources. We decided that we wanted to develop our human resources because the backbone of any government is its people, its ability to do the things that have to be done to make a government responsive to their needs.

So I think that tribes are ready today. Many, many tribes throughout the country are striving. They are thinking of how they can deal with the high unemployment. Who likes to live in a community where you have high unemployment, where poverty exists? We don't like that and we want to change it, and I think that it can be changed, but I think that it will take a real strong effort by the Congress and by the agencies that have legal responsibility to work with tribes, to be given the authority or be required to do certain things that would make it advantageous for the tribes to develop themselves.

Now if a tribal government has leaders that may be corrupt or they are not doing the things that they ought to be doing, then it is up to that tribe to change that. It is up to them to make that change so that they can elect leadership that is responsive, leadership that is interested in their welfare, as well as interested in development of their resources.

We have done this, Mr. Chairman, starting 30 years ago with almost nothing, in deep poverty. Today we are considered to be one of the models of what can be developed in Indian country. We decided that we needed to develop our community, so we worked hard on developing our infrastructure in our community, community centers, social and recreation areas. We developed our schools, health facilities, built new homes. We have a very modern and progressive-looking community.

All that is great, but we decided that we wanted to take it one step further and build an economy that is based on the reservation and part of the infrastructure in our community, where people can work and receive pay that would enable them to pay for their own needs. It has brought pride back to the people because they can work for their own living and buy the things that they need in order to have a good, strong and stable family.

We have been successful in bringing manufacturing enterprises. In 1979 we opened up our first plant, where we started with about 25 people with $500,000 of sales with General Motors—$500,000. Now today, in 1987, we have nearly 1,200 people employed with annual sales of about $25 million, which I consider is just a beginning of what we aspire to do by increasing our sales.

We have six plants. We have established six plants in a mix of different kinds of entities. The tribe owns three plants, that is, the automotive wire harness assembly plants. We have two joint ventures. One is to develop and manufacture automotive speakers for Chrysler. Another one is an electronics company. We do electronics components and circuitry.

So within this time we have taken the risk. We got into about $10 million of risk. We made an investment of about $10 million, and within this 7 years we have paid about $6 million of that back, so there is definitely an element of risk. No business can be assured of success without a risk, and it has to have good management, it has to have good people that know the business to make it a success.

We are doing business with the major corporations of this country, and I don't see why other tribes cannot do the same thing that we are doing because it doesn't take magic. It takes some leadership. It takes some determination that you are going to do something with the unemployment, and start doing something about it.

I strongly believe that the Bureau of Indian Affairs or the Federal Government should not be let off the hook. They are criticizing us so that they can get off the hook, but they are criticizing the wrong group. I think that they are subject to a lot of criticism themselves because they don't have any plans. They don't have any real plans that they can initiate into Indian country, that deal with high unemployment, that strengthen tribal government, that are interested in developing reservation-style living.

They don't have that kind of a feeling within the Bureau at this point. The last 6 years they have done nothing but keep cutting, keep cutting your programs until we almost have no programs. Fortunately for me, fortunately for my tribe, we started on a strategy of economic development 10 or 15 years ago, so that some of the cutback, the strong cutback that has been instituted, some of that is not quite as bad as it could be because we are employing people.

I strongly believe that problems that exist on the reservation can be cured, they can be solved, but it is going to have to take a strong determination by the tribes themselves, with the help of the Federal agencies, with the help of the Congress as well, and I know that you people are interested because if you weren't, you would not be presenting these kinds of bills that are before us now.

We do support particularly the Indian Finance Corporation. I think that is one of the elements that you have to have. Capital to do business is very necessary. I don't know all the details about that, but the concept of an Indian bank providing capital to tribes is a good concept and should be adopted as we go along.

My immediate recommendation would be that I think that we need to establish within the Interior Department, not necessarily within the Bureau, an Office of Indian Tribal Government Development, so that it can start concentrating on economic problems, provide technical assistance to tribes, strengthen their government, work with their leaders and get them acquainted with the private sector. Chances are, most tribal leaders don't have any contact with outside business, big business that is out there.

Also in business right now they are looking for ways to cut their costs. They are doing a lot of offshore outsourcing, but a lot of those kinds of jobs can be done here in the United States in places like Indian reservations and in the depressed areas in the country where high unemployment exists. We do not need somebody else, some other foreign country, to produce this stuff that they are producing now, because it can be done here.

This is where I see the Government can help us to start talking with the big corporations, not only in automotive but in other businesses that may be interested in doing business, or primarily they are looking for ways to cut their costs. Industry doesn't want to come to a reservation and establish a business on a reservation. They are looking for ways to cut costs. If they can come to a reservation and find suppliers, find the product or have products produced that they want at reasonable cost to them, then that is what they are looking for. They are not looking to build big infrastructure. This is where the tribe can do that.

We have almost 300,000 square feet of floor space. We have been reinvesting in these six plants, so what we want to do now is, we want to go and increase our sales so that we can have more jobs for our people.

There is no reason why a tribal government should be left out of the process of reservation development. There is no reason why tribes cannot make the progress. There is no reason why they cannot find businesses to come to the reservation, but they have to have the financial support, they have to have the technical assistance that is needed to do this.

I could go on and on on this subject but I would like for my colleagues to also express their concern about the reservations and what legislation might be needed to do this.

[Prepared statement of Mr. Martin appears in the appendix.]

The CHAIRMAN. Chief Martin, all of us on the committee are greatly impressed by the success story of the Choctaw Nation. As you know, the legislation before us does emphasize the importance of the tribal governments and tribal councils.

Chief MARTIN. Yes, sir.

The CHAIRMAN. You apparently have succeeded in becoming self sufficient, improving the economic condition of your nation, without these two measures that are before us. How would these bills help you if they become law?

Chief MARTIN. Well, I think it probably would enable us to get technical assistance readily. If we wanted to borrow money for investment, it would be available. What we have used so far is the Indian Finance Act. The Indian Finance Act has been valuable from my point of view because we did not have the capital to go to a local bank and make the loan that would be necessary, because we could not come up with the capital or the collateral that is needed. When you have a guaranteed loan, most banks will smile at that because the only risk they have would be about 10 percent, and they would find a way to get it out of the tribes anyway. [Laughter].

That is kind of a good arrangement and so far we have had success with that, but the bank would also—it would be a plus for going to the bank. However, they must be competitive because all banks are looking to do business with anybody where they can make money, so that would be very helpful.

The strengthening of economic effort, the strengthening of Public Law 93-638, would also be very helpful to do business with Government because there are a lot of things out there that a tribe can do better than the Bureau. We have already proven that, that we can defederalize the Federal program and put it on more of a business basis a lot better than the Bureau can.

The CHAIRMAN. What is the unemployment picture in the Choctaw Indian Nation?

Chief MARTIN. Just 10 years ago, particularly in the winter time, we would have 60 to 70 percent unemployment. Nobody had really a permanent job unless they worked for the Bureau or IHS, until we started the industry. We are down to about 20 percent at this time.

The CHAIRMAN. Thank you very much.

Our next witness is the chairman of the timber, grazing and overall economic development committee, the Honorable Robert Olney.

STATEMENT OF ROBERT OLNEY, CHAIRMAN, TIMBER, GRAZING AND OVERALL ECONOMIC DEVELOPMENT COMMITTEE, YAKIMA INDIAN NATION, TOPPENISH, WA, ACCOMPANIED BY RAYMOND E. OLNEY, CHAIRMAN OF THE LEGISLATIVE COMMITTEE

Mr. ROBERT OLNEY. Mr. Chairman, Honorable Senators, my name is Robert Olney, and accompanying me is Mr. Ray E. Olney, who is chairman of our legislative committee. We are both members of the tribal council of the Confederated Tribes and Bands known as the Yakima Indian Nation. We are located in the central part of the State of Washington, with a total acreage of 1,371,918 acres.

You have our prepared statement here, and I would like to thank you for allowing us to participate here today, to provide testimony in this important area. Our tribe is a treaty tribe that was negotiated in 1855, and we are a tribe that has retained a portion of our total aboriginal lands, so we are still in our homeland. We have an abundance of natural resources, and our economics are determined from the value of our lands and our water, from the earth, because these were gifts to our people from the Creator and it is something that is sacred to our people. Without our land base and without being able to control our lands and our reservation, we won't be able to establish and stabilize meaningful economics for our people.

Prior to the treaty our people all had their basic needs taken care of in terms of economics, and each person that we had had a useful place within our Indian way of life, but as time has gone on and all of the different policies that we have endured through, the different oppressions, it all comes down to surviving through the genocidal policies that have been thrust toward our people. We have to take a look at our past and how that has developed, to see how we could positively make some change for now and in the future.

The treaty itself is the genesis of our sovereignty, according to the Constitution of the United States, and we see that as the genesis of President Reagan's government-to-government policy. We need to have the help of Congress to make that policy become a reality, a meaningful reality for us as Indian tribes and Indian people. It sounds good, it looks good, but if there is nothing behind it, it just becomes another empty policy that we are going to put on the shelf with all the other policies that really haven't done that much for us as people.

We have all types of everyday interference from the State government, from the county government and the city government, toward our economic base. We are forced to spend an inordinate amount of time and money fighting in litigation and trying to establish our sovereign rights on the reservation that was reserved as our permanent homeland.

The State of Washington when it entered the Union, in accordance with the enabling act and section 26 of the disclaimer which the U.S. Government was party to, the State of Washington forever disclaimed any right and title over Indian lands. We think that the Congress is a party, and if Congress is interested in supporting economic development for Indian tribes in the State of Washington, you would statutorily mandate that the State comply with this law. We are interested in self-determination in a meaningful way.

We have had a number of varied experiences in economic development, our tribe, in the past. We have had Executive Air Enterprise. We have had boat manufacturing. We have had Pan Sylvan Engineering, which was an engineering consulting type business. We have had an agriculture enterprise. We have had a seafood processing facility, and we have had a garment factory, all of which for one reason or another were not successful.

But some of our elders had the foresight to start an enterprise back in 1950 called our Yakima Land Enterprise, which was established for the purpose of purchasing the lands that were being lost either as a result of the Allotment Act, the Homestead Act, or the crooked agents at the turn of the century that were taking the lands from our people by forcing them to sign papers and documents that they didn't know and understand. That program for the past 37 years has been fairly successful, and it has been successful because all of the income that we get from the lands that we repurchase, we don't allow to be used for any other purpose but reinvested back into the enterprise, purchase land, and necessary improvements.

The reason why it has grown so as a good enterprise is because of the value of our land. We have probably the largest irrigation project, within our reservation boundaries, in the Yakima Basin, and approximately 45 percent of these lands are in fee patent status. Although the project itself was established on Indian water right, a lot of that water right is used by the non-Indians today, as are a lot of our other resources.

With all of our resources that we have, our people are basically poor. We have a low income, below poverty level. We have high unemployment, and it has been the colonization process that has come in and developed economics so that the benefits accrue to the colonizer. We need to control our resources, and we are asking your help on one issue, in being about to utilize some other moneys. We can only utilize today legally one type of money to purchase fee patent lands and put them back into trust, and that is land sale money.

Now when the Indian Land Consolidation Act was enacted, there are a couple of provisions within that act that would allow tribes to purchase fee patent lands and put them back into trust, but because the Yakima Nation has our own act that prohibits that, we are unable to utilize the Land Consolidation Act as other tribes are. We need help in amending our act so that we can purchase some of these fee lands and put them back into trust. Right now there are about $20 million worth of fee lands that we would purchase and put them back into trust, so that we could put our reservation land base back into our control, but we are unable to do that.

Now there is one provision in the Indian Land Consolidation Act in regard to escheatment. Now we were told that we couldn't use the act that would allow us to purchase fee patent and put it back into trust, but the probate judges told us that we have to use the escheatment clause out of the Land Consolidation Act. We are told that we can't use the part that would really benefit us, but we are being forced to use the part that is applied against our people, that they don't like, because it is taking their property rights away from them without their consent. We would hope that sometime we would be able to get help from the committee in developing some type of amendment that would give us some relief in that area.

Also within our reservation we have an industrial park which we have five industries upon now, and we have all of the infrastructure in place, and we have the majority of that land base still open to attract industry to our reservation. On that industrial park we have what we call Mt. Adams Furniture Factory, which is the only Indian furniture manufacturing firm in the country. We sell our product wholesale within the northwest area. This was established in 1973, and even though we have soft times in the marketing of the furniture, it has been able to survive over the years. We hope to expand our knowledge and our marketing capability so that it could continue to be a viable industry on the reservation.

We also have a cultural heritage center which has a restaurant which is currently closed. It has a movie theater. It has a museum, a gift shop, and a library. It is basically a cultural center where we can promote our culture and an understanding of our people to our non-Indian neighbors. In the original plans for the cultural center it was intended that we would have the ability to have conferences and things of that nature, but the very thing that made it a viable, self-sustaining, functioning unit was left out, so we are in the position now today where we have to subsidize through tribal appropriations yearly to keep it open.

We also have a Yakima Nation Credit Enterprise which is for the purpose of providing loans to our tribal members. We have currently approximately 2,500 loans outstanding. Because of the local economy, because we are an agricultural community, the economics is very poor and a lot of the loans that we had, we are having problems collecting them, but it is still a viable enterprise. It has been surviving and it is not receiving any appropriations currently. It is a self-sustaining enterprise.

Also for the past 13 years the Yakima Nation has been the major stockholder in the American Indian National Bank. The purpose of the bank was twofold: one, to provide economic development for Indian tribes throughout the country; and, second, to provide investment opportunity for the shareholders in the bank.

We have found out from the last 13 years of experience that a small commercial bank, is not going to meet the economic needs of the Indian people. It is just on too small of a scale, and there are banking regulations that prohibit the growth where it could meet the needs of the community that it was intended to serve. They are limited in their lending capability to a certain percentage of the capital investment, so it is limited as to the size of loans that it could make to Indian tribes or Indian people, and therefore, couldn't be adequate to some meaningful development, development that would really benefit Indian tribes.

Due to the lending limits and the constraints that were on it as a small bank, and then within the last couple of years the investment tribes themselves became concerned about the investment that they had in it, the emphasis of the bank shifted to a profit-oriented scheme of things. Then they became incompatible with the initial intent of it, so we know the limitations of a small bank, and it is obvious that they are not able to basically fulfill the needs for which it was established and intended.

But the inability of a small institution to address the need does not detract from the magnitude of the need for such an institution. There exists a very real need throughout Indian country to provide long-term capital and sources of financial credit, and not only those two things but also to provide sorely needed technical assistance and managerial expertise that is lacking throughout a large part of the Indian country.

These are some of the experiences of our tribe, some of them successful, some of them not so successful, but the potential that we have is as a large timber-owning tribe, in fact the largest timber-owning tribe of any tribe in the country. We have been selling the stumpage of our trees since 1950, and for the past 40 years we have never diversified other than selling the raw stumpage of the tree. Now when that tree is cut in the mountains, there is somebody that comes in and logs it, there is somebody that puts it on a truck, there is somebody that hauls it down to the milling facility. It is milled it comes out as a product. Somebody ships it off. They get a shipping fee, and then it goes to some retailer or wholesaler, and by the time it gets to the consumer there is a lot of money made on that tree, but we are just getting the basic value.

We recognize for us to get a better value of our resources that we have to diversify, so what we have planned is to purchase an existing sawmill, which would give us the added-value benefits that would enable us to enhance our employment opportunity. It would stablize our income. It would bring up the value of our timber, and the thing that we need to do today in our political process is, we have to have the people's approval for any new economic development enterprises.

Because of all of the past experience that we had of the tribe utilizing our renewable resources, there have been internal political mandates by the people. It seems like when opportunity comes our way in terms of economic development, that because of some of the past failures of our enterprises, that we have to deal with a political situation. We need to look toward alternative sources of funding, long-term fundng, other than the people's income from our resource base.

We have that political part that we have to deal with, that other normal governments don't have to deal with because they operate on a tax base. We as a tribal government don't have the normal taxing ability, or we haven't had them in the past, that all normal governments function on—Federal, State, country, city, what have you—so we have to deal with the other political issue because we are dealing with the same—it belongs to the people but it is not through a taxing scheme.

We believe that protection of our resources is long overdue and we look to the Federal Government to help us in that, whether it be in the protection of our water rights, the protection of our land base. These are basic problems that adequately addressed, are going to enhance our economic abilities.

With these thoughts in mind, the Yakima Tribe supports the idea of an enterprise zone and the Yakima Tribe favors Indian preference in procurement contracting. Based upon our experience, we are convinced that the financial institution as envisioned in S. 721 would be an integral part of economic development on our reservation.

We are seriously interested in the concept and the needs, and solutions that have been brought out in it, could help resolve the problems that are facing Indian tribes today. Of course we are concerned about some sections of it, and once we understand those we believe that it could be worked out on a government-to-government relationship if we are able to participate in the development of it.

We are concerned about any of our finances, and like some of the previous speakers have alluded to, our people have become cautious. What Chief Martin was saying, that people view us as an obstruction to progress, I think that some of the laws that we have that have not been upheld have obstructed our progress as Indian nations, as sovereign nations on our own land base. We need the help of Congress to ensure that we could utilize our permanent homeland to our people's benefit.

I thank you. I will conclude at this time, and I am glad to have the opportunity to speak here today.

[Prepared statement of Mr. Robert Olney appears in the appendix.]

The CHAIRMAN. I thank you very much, Mr. Chairman.

What is your unemployment situation?

Mr. ROBERT OLNEY. We are approximately 75 percent today.

The CHAIRMAN. Approximately 75 percent unemployed?

Mr. ROBERT OLNEY. Yes.

The CHAIRMAN. You believe that these two measures will help you to improve that picture?

Mr. ROBERT OLNEY. Yes; I believe that the relief that we could get from constantly fighting to establish our own jurisdiction, which we believe is rightfully ours, that we could develop the money saved in litigation and traveling all over, fighting the local jurisdiction, that we could put that money to use in putting together a viable, stable economy for our people. We could use it for putting our people to work. The high unemployment that we have, it creates broken homes, it creates a lot of problems for us. We want to be able to initiate projects that would provide employment for our people that are willing to go to work.

The CHAIRMAN. Mr. Ray Olney, do you have anything to add?

Mr. RAYMOND OLNEY. Thank you, Mr. Chairman.

I would like to, at this time, talk just a little bit about the unemployment rate of our people. It is true that it is 70 percent plus. We have all of our water, our sacred water and our land that is being farmed by non-Indians, but we have pressures from other people in the community that "all the water belongs to the Yakimas and most of the land," but still our people are unable to work.

Now we certainly have an influx of Mexican-American people that are workers and that do follow the work around, but we have to compete with them now on a day-to-day basis to get our people to work in agriculture. This is one of the things that maybe perhaps our tribe is going to examine.

In regard to our furniture factory, it has been in existence for approximately 18 years. I say that because I am a product of that furniture factory, Mr. Chairman. I have seen 1,000 Indians, native American, true Indians, that came from the fishing grounds on the Columbia River into the factories, and believe you me, it was a disaster. In 3½ years I have seen over 1,000 Indians hired and fired. We have more or less kind of stabilized here the last 10 years.

It is true that we make furniture, very good furniture. In fact, I appreciate, Senator, your coming out and visiting our reservation. It would be very helpful if we had a Federal contract, so that way we would have a way of keeping our people employed and providing for themselves, but technical assistance is needed also in the marketing area, and I am sure that is true in many other reservations.

We have certainly thought about maybe, perhaps, expanding somewhat into a recreation area, multipurpose ball parks, so that we can draw people in. He said our heritage restaurant is closed at this time. If we had some ball parks, lighted ball fields, this would draw people into the area and as far as economics are concerned, this would help us greatly.

That's all at this time, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Our next witness is the chief of the Office of Business and Economic Development of the Navajo Nation, Mr. Henderson.

STATEMENT OF AL HENDERSON, CHIEF OF THE OFFICE OF BUSINESS AND ECONOMIC DEVLOPMENT, THE NAVAJO NATION, WINDOW ROCK, AZ

Mr. HENDERSON. Thank you, Chairman Inouye. Colleagues and guest, my name is Al Henderson, and I bring greetings from chairman Peter MacDonald of the Navajo Nation Tribal Council. Chairman McDonald recently appointed me to implement his business and economic development plans and programs. Much of my testimony today will deal with the actions we have initiated in the last several weeks. These actions, we believe, will begin a process that will accelerate business development and a pattern of sustainable economic growth in the Navajo Nation.

First, however, it is important to understand why we believe it is necessary to strengthen the private sector to reduce our high unemployment, now hovering around 32 percent. As you well know, American Indian tribes have had a long history of depending on Federal grants and various forms of financial aid to provide direct services for education, health, and social services. The delivery of these services, in turn, provided jobs. For several years funds from these sources have been steadily declining. This has adversely affected both services and employment of tribal members.

Generally, Federal and tribal policies nationally have tended to placed tribal government at the center of the development process. Tribes were expected to act as the primary engines of development. Creation of tribally-owned enterprises and public sector employment were stressed. When outside industry was recruited, the role of the tribal members themselves in the development process was viewed as passive—providing a pool of human resources whose chief advantages to outside businesses were its availability and low wage rates.

Such strategies, with some notable exceptions, were not very effective at producing sustainable growth or building economic independence. In the Navajo Nation, Government wages and transfer payments accounted for most personal income, while the extraction and sale of raw commodities provided tribal revenue. Finished goods and services were purchased from border towns, and the multiplier effect of income produced within the Navajo Nation was practically zero. But while Federal subsidies were high and before oil prices fell, these strategies at least enabled many people to work and the semblance of an economy to function. That is no longer possible.

Between 1976 and 1986, Federal grants and contracts as a percentage of total Navajo Nation revenue have fallen dramatically. During that same period, the Navajo Nation government's total annual revenue has also declined. This translates into a significant loss of jobs, but the reduction in Federal funding level is not the only cause of rising unemployment.

Since the 1920's, when the BIA negotiated the first leases on behalf of the tribe, the Navajo Nation government has also depended on royalty payments from mineral extraction—oil, gas and coal, as well as some uranium. Royalty payments—and, more recently, taxes—account for over 60 percent of the tribe's revenue base and have been the principal means of financing the Navajo Nation government's operations and services, which are responsible for more than 4,000 public sector jobs. The decline in these extractive activities has affected Navajo Nation revenue just as it has affected our neighboring States, particularly New Mexico.

While changes in national policy and macroeconomic trends affect the broader environment in which we have to operate, the growth of the Navajo Nation's labor force is steadily increasing the demand for jobs. Our population is young, Senator. The average age is 17.5 and 50 percent of the population is under 21 years of age, and growing rapidly at nearly 4 percent per year. At this rate, the population will nearly double by the turn of the century.

Our high unemployment rate represents 25,000 to 30,000 Navajos who are out of work, and 2,500 to 3,000 additional Navajos enter the labor force each year. Finding productive work for this young and growing population which will allow them to live as Navajos in the Navajo Nation and to earn a decent standard of living is the challenge of economic development.

Chairman MacDonald has vowed to create new jobs on the order of no less than 1,000 jobs each year. We know that Government funding, public sector jobs, and the sale of raw commodities cannot sustain our economy at its current level, much less develop it. New policies are needed, policies which put people rather than government at the center stage of the development process, and which demand new roles for the governments. The core of these policies is investment in people. We are simultaneously pursuing several strategies to make these investments, and I will cover a few of them.

Selective industrial recruitment: We have begun aggressively promoting the Navajo Nation as a country which intends to offer excellent investment opportunities for business. We realize the fundamental fact that we are in a competitive arena and that many States, counties and cities are doing the same thing and in many ways have more initially to offer some companies. For this reason, we require careful analysis of the areas in which the Navajo Nation has a competitive advantage or a distinct competence because of location, the natural resources that we have, tax advantages, market access, or our labor force.

We are not interested in footloose industries which seek only the cheapest labor, and will move to Singapore or Malaysia rather that to invest in a productive Navajo work force. We are interested especially in attracting sound, blue-chip companies whose products and services can build both vertically and horizontally from our own natural and human resources base—that is, agriculture and timber production, tourism and recreation, manufacturing and service-related, power generation, et cetera. We are, in short, interested in recruiting outside businesses that will commit themselves to helping the Navajo Nation achieve economic stability in the long run.

To assist us in that effort, we have reorganized our business and economic development program, making it directly accountable to Chairman MacDonald. We have also established two new mechanisms.

The first is the establishment of the Navajo Nation Business Development Task Force, an advisory body to be comprised of leading American businessmen, now being formed. It will serve to establish communications between the Navajo Nation's industrial program and businesses across America.

Two, the establishment of the Commission for Accelerating Navajo Development Opportunities, known by its acronym, CANDO, will consist of a dozen full-time professional staff members having extensive experience in business development, who will act much as an account executive would within a corporation. Once assigned a major project, such as those resulting from task force efforts, the individual commissioner becomes the key link between the Navajo Nation and the business prospect. This linkage enables the parties to have ready access to important information and the communications necessary to conclude an agreement leading to implementation of the proposed project.

From past experience, it has often been the case that good business prospects were lost because appropriate continuing liasion between the company and the Navajo Nation was not maintained, to enable the company to know the weekly progress being made and the likely success of efforts to bring proposed projects to fruition. It is CANDO's responsibility to take projects identified by the task force and to guide them successfully through the Navajo Nation's regulatory and legal clearances. If we are successful, the Navajo Nation will host appropriate manufacturing or industrial operations at several of its seven industrial parks. We anticipated creating between 200 and 300 new jobs in each operation.

Second, removing barriers and creating business incentives: Even several big projects by themselves are not going to enable us to reach our target of 1,000 new jobs each year, but they can act as catalysts to development of homegrown businesses. Since the premise of our policy is that employment must be generated by creating employers, the development of literally hundreds of new Navajo-owned enterprises must be encouraged.

Yet the constant complaint of many operating businesses in the Navajo Nation, as well as others attempting to enter business, is that the cost of doing business is discouragingly high. The most commonly cited costs, both in time and money, are those associated with the completion, processing and approval of documents required to start a business and those associated with the terms of business leases, permits and taxes, which hinder profitability. Both sorts of costs act as psychological and financial barriers to business start-up and expansion.

The Navajo Nation government has undertaken a review of both tribal and Federal administrative procedures, regulations and laws which act as impediments to business development. We are currently working to reform and simplify the business site leasing process and to improve working relationships between tribes and BIA personnel and applicants for business leases and permits, to eliminate much of the buck-passing and finger-pointing which has frustrated potential entrepreneurs in the past. Some of these changes can be made simply by identifying the problems and improving the ways we work with each other. Some will undoubtedly require change in tribal law. More fundamental changes in Federal regulations and law may be required to redefine the exercise of trust responsibility, as Indian nations assume increased responsibility for regulating and promoting business activity in their jurisdictions, and as Indian entrepreneurs replace non-Indian traders in the marketplace.

As we have done with respect to our outside business partners, we have also established a Navajo Nation Business Advisory Group. This body, made up of several local successful business persons operating within the jurisdiction of the Navajo Nation, will assist us by providing feedback on our effectiveness in removing barriers to business development and making recommendations for further actions that we can take to improve the business climate.

Providing assistance to Navajo entrepreneurs: In addition to removing barriers, we are providing new incentives for business development. An important feature of this strategy is to provide adequate sources of credit and financing for business start-up and investment—a job we can begin but cannot do alone. As an immediate stopgap measure to the problem of capital shortage, we have identified approximately $4 million of the Navajo Nation's appropriated funds which we have pooled into a new economic development fund account. This will serve as seed money for new businesses and industrial development projects. Over time, our plans call for this fund to evolve into a financial institution, autonomous of Navajo Nation government operations, to serve financing requirements of business.

In this regard, we support Senator Inouye's bill, S. 721, to create an American Indian Development Finance Corporation. Although our own efforts will enable us to provide start-up and operating capital to smaller businesses, the AIDFC will provide financing for major projects requiring capital on a large scale. The tax-exempt status of the corporation's capital reserves, surplus income and property would be extremely beneficial. The Navajo Nation believes that other incentives may also be desirable. We will supply the committee with amending language in the near future to address these issues.

In the long run, to finance major business development projects that require sizable capital injection, the Navajo Nation will also give serious consideration to debt financing, issuance of bonds as authorized under the Tax Status Act, and other forms of tax-exempt or tax-sheltered financing. We intend also to reconstitute the bond finance and investment committees of the Navajo Tribal Council, to enable them to seek new sources of capital formation and investment options to advance the Navajo Nation's business and economic development agenda.

Our business incentive program also seeks to improve the competitiveness of our industrial parks and shopping centers through infrastructure improvements, and to withdraw additional land in primary and secondary growth centers, creating our own enterprise zones, if you will. In this regard, we want to acknowledge here our strong support of Senator McCain's Indian Economic Development Act, which will offer just the sort of Federal tax credit and other incentives to employers in Indian enterprise zones that we feel can create attractive business development opportunities.

We find that some amending language in this bill can make it even more helpful. General Dynamics, for example, has been in the Navajo Nation for 20 years and has recently expanded its facilities, but to do this economically they require trained workers. Although the Job Training Partnership Act, administered by our Division of Labor, has been used effectively, it will reach only a relatively small percentage of those who need training. This bill would be improved by including job training credits similar to the proposed hiring credits.

In addition to other incentives, we are establishing five regional business development offices whose responsibility will include packaging financial and business plans; providing assistance to Navajo entrepreneurs in securing business site leases; financial assistance and Navajo preference certification; and providing a wide array of management and technical assistance to business owners.

Fourth, creating a skilled work force: Finally, we have learned that available capital and proper incentives are only some of the necessary conditions for economic progress. Education and training of the work force are as important as economic costs associated with production. The Navajo Nation believes that job training and higher education are critical in advancing our growth plans. We urge the committee to use its influence to secure greater resources for Indians for job training programs.

Recently the House Education and Labor Committee marked up H.R. 90, the competitiveness bill. In the bill are provisions to assist tribes to leverage additional funds for the training and retraining of displaced workers. Perhaps we can strengthen these provisions in the Senate's companion legislation. A portion of the funds appropriated under this bill might be authorized as a set-aside program to train former Navajo uranium mine workers, hundreds of whom have lost jobs when the uranium market collapsed.

The Jobs for Employable Dependent Individuals bill recently passed by the Senate, S. 514, also provides opportunities. In addition, we encourage your continued support of the Job Training Partnership Act, and appreciate the continued congressional support of funding for higher education programs administered by the Bureau of Indian Affairs, the Navajo Community College, and the Crownpoint Institute of Technology.

Part of this strategy involves gearing our training and educational programs toward activities with strong built-in job-creating components. The Navajo Nation government is working closely with the Crownpoint Institute of Technology in developing an entrepreneurship training program to identify potential owners of a start-up businesses and strengthen their behavioral traits such as opportunity seeking, risk taking, planning, and demand for quality and efficiency, that are crucial and critical to business success.

Finally, investment in people also means involvement and action at the local level. Solid partnership must be formed between BIA, IHS, chapter officials, and local businesses, teachers, and community leaders who understand the needs of our tribal members. Their active contributions to our efforts must guide the implementation of these policies. The success of these initiatives will depend on forging close working relationships between Federal, State and tribal governments and the private sector.

We need assistance from our Federal trustee in developing our resources, providing educational and job training opportunities, delivering quality health care, and helping us preserve and clean up our environment. What we do not need from our trustee are proposed royalty revaluation regulations by the Minerals Management Service that, if implemented, would deprive us of millions of dollars in revenues, nor do we need new tuition requirements for those Navajos attending the three BIA post-secondary schools.

We need bold, innovative, forward-looking solutions to our problems as proposed by our Senators from New Mexico and Arizona, Senators Domenici, DeConcini, Bingaman, and McCain. Just 10 days ago, Senator, they agreed to host an economic development summit in the Navajo Nation, the first of its kind, to devise a strategy to attract business and investment. Those who will be invited to participate include business leaders, the New Mexico, Arizona, and Utah congressional delegations and their Governors, Interior Secretary Hodel, Assistant Secretary Swimmer, members of our tribal council, and economic development officials from the surrounding States. We believe that this high-level attention will lead to the kind of action our problems require.

The Navajo Nation thanks the committee for their increased activism and advocacy on behalf of Native Americans. We believe that Indian reservations represent the last economic frontier needing to be developed in the United States. Through your hard work and positive initiatives, Indian tribes will be able to move from long-term dependency to true self-sufficiency.

Thank you.

[Prepared statement of Mr. Henderson appears on the appendix.]

The CHAIRMAN. Thank you very much, Mr. Henderson. We look forward to receiving your recommended amendments to the measure before us. May I suggest that they be received by us within 2 weeks?

Mr. **Henderson**. We will make the deadline.

The **Chairman**. We would like to begin action on these measures. If you can get it to us in 2 weeks, I think we can study it and incorporate it if necessary.

Mr. **Henderson**. Thank you.

The **Chairman**. Our next witness is the executive director of the Council of Energy Resource Tribes of Denver, CO, Mr. David Lester.

STATEMENT OF DAVID LESTER, EXECUTIVE DIRECTOR, COUNCIL OF ENERGY RESOURCE TRIBES OF DENVER, CO

Mr. **Lester**. Thank you, Mr. Chairman. I admire your endurance. It has been a long afternoon. I will try to be brief.

I have been given the honor to attempt a summation of the information provided, and to put it into the context of the package of initiatives that you are leading in the U.S. Senate, which we understand to be amendments and a reauthorization of the Indian Finance Act; the Indian Economic Development Act, S. 788; review and amendments of Public Law 93-638, the Indian Self-Determination and Education Assistance Act—which, by the way, is very much a part of, in our view, building viable, well-functioning tribal economies, taking Federal expenditures and moving them to the control and expending those dollars within tribal economies; and, of course, the Indian Development Finance Corporation Act, S. 721.

We believe these measures, along with your review of preferences and set-asides and the barriers to tribal and individual Indian participation, will help level the field so that Indian tribes and Indian economies will have an opportunity to compete in their regional, State, national, and in many cases international markets.

Unemployment nationally among Indians is a very serious problem, as you have noted. It is running approximately 25 to 90 percent. On a percentage basis, that is what it was running 20 years ago. Many have concluded that all the efforts of Government, tribes, and industry in the intervening 20 years have had no progress.

The fact is, our population has more than doubled, in fact nearly tripled, in those 20 years. Therefore, while we have still a serious unemployment problem, we have today more Indians working, gainfully employed, than we have ever had in the history of the United States.

As was pointed out by several of the tribal witnesses today, their population increases become major challenges and a major element in their economic planning—how to create the jobs, build the economic base, not only for those who are unemployed today but those who will be working, entering the labor market tomorrow and in the years to come. We do know that the status quo will not provide sufficient progress to accomplish our goals of providing gainful employment to tribal members within the context of reservation economies.

We have had some discussion today in terms of tribes as political institutions and their relative stage of development. While the tribes are still developing their political, governmental institutions, I can tell you that in our experience over the last 11 years, every time a tribe has been able to wrest away control from the Bureau of Indian Affairs and the Departement of the Interior, they have been successful in negotiating far more beneficial mineral agreements than ever were negotiated on their behalf by Federal agencies.

They are more beneficial in three critical areas to economic development. Not only do they provide more royalty or income from the production, they provide greater environmental protection, so that land and resources are not destroyed and the land can be put to continued economic beneficial use, and the tribes have insisted in those agreements that more jobs be held by tribal members within the reservation economy.

These types of provisions were never included in the agreements negotiated on our behalf by Federal officials, so the question of tribal control I believe is a very key element in terms of the natural resource development process. I believe you have heard testimony today which cites several tribes' examples of the Interior Department, which in our view has a responsibility to provide protection for our natural resources and our land base, actually intervening in their actual direct management, leaving us somewhat unprotected. We believe that protection does not imply management, but rather a forceful, aggressive enforcement of the agreements that the tribes themselves negotiate for their economic benefit.

The tribes and other expert witnesses today have discussed three broad strategies for building tribal economies: one, attraction of outside companies to invest and locate within their jurisdiction to create jobs and income for tribal families; two, small business, retail service, to capture internal markets within the tribal economy, to recycle those dollars, providing jobs and services at home within the tribe. These tend to increase the economic multiplier within the tribal economy and decrease economic leakage.

Then the third area that has been discussed today is the concept of value-added activities derived from natural resource development within their lands. These also retain jobs and income and other economic benefits within the reservation economy.

It has been our experience at CERT that tribes who actively engage in these three strategies, effectively close the economic leakages within their reservation, retain jobs and income for tribal members, and are beginning to see the effects of a stronger economic base upon which tribal political and social institutions must rest.

We do know that there are many barriers to successful pursuit of any one or all of these three strategies. Principal among the barriers and some of the most difficult to overcome for Indian tribes is the paucity of technical, professional and managerial expertise and the inaccessibility of capital to develop tribal projects.

I would like, I think, to draw a distinction between projects that are on Indian reservations by virtue of the existence of an abundance of natural resources, that were conceived by outside investors that bring in outside management, exploit the tribal resource, and provide jobs in distant cities but provide little economic benefit, indeed exacerbate the social pathology cited by Robert

McLaughlin. We have that scenario contrasted to projects conceived of, developed, financed and managed within the tribal economy by both Indian and non-Indian. These projects tend not to be able to attract the kind of capital, nor do the tribes have the professional/technical capability to carry these projects through to fruition.

Your proposed Indian Development Finance Corporation addresses these two critical elements, managerial and technical assistance as well as access to capital—capital that accepts the legitimacy of tribal government, capital that knows how to benefit tribal economies. When S. 721 is enacted, it will bridge the gap in a way that Federal agencies have failed to do in all the years of their existence.

I would like to point out for the record that the Indian Development Finance Corporation, in our view, is not a development bank to fund and underwrite infrastructure and public works. It is, in fact, focused on a critical need to build successful private and tribal enterprise within reservation economies, and will act as a mechanism—a magnet, if you will, or an intermediary—for tribal economies to access larger capital centers in the United States. Successful enterprise, productivity, create employment.

We do recognize that S. 721 and S. 788 by themselves or together are not the magic pill, as Mr. Stallings pointed out, but they are important steps forward. What we see is a willingness of this committee in Congress to take a very serious look at investing in our future. We believe that investment to be long overdue, and we welcome the opportunity to work with you to see these measures enacted into law.

Than you.

[Prepared statement of Mr. Lester appears in the appendix.]

The CHAIRMAN. I thank you all very much. I would like to point out that we on this committee consider economic development to be of the highest priority. We would like to assist you in making words such as "self-sufficiency" and "independence" real words, not just hollow promises, so we will do our best, and we look forward to working with you.

Mr. Henderson, I believe you said in your testimony that your tribal population is now growing at a rate of 4 percent per year?

Mr. HENDERSON. That is correct, Senator.

The CHAIRMAN. Is that a result of tribal policy? [Laughter.]

I am very serious about this because the Indian population is, I think, the fastest-growing ethnic group in the United States.

Mr. HENDERSON. That is correct, sir. No; it is not a result of tribal policy.

The CHAIRMAN. And you believe that your economic development plan can be geared up to meet the demands of this increased population?

Mr. HENDERSON. We are certainly geared up to go ahead and meet the question of how do you begin to turn the engines of meeting job development objectives that we have. I think that is probably the fundamental issue that we are dealing with. How do we go ahead and reorient the thinking of the institution, the Government operations, the people who work there, to focus their attention on real job creation activity?

I think this is probably a serious agenda that we want to instill in people who work with us and for us. Out of that process, I think our goal of trying ot get the institution geared up for at least a minimum of 1,000 jobs each year is, in our estimation, an achievable goal and one which would probably, if we are successful, continue to go at that pace.

That alone, Senator, is not going to put just about everybody who needs a job at work, so we are still slipping behind on a percentage change rate per year, but if we can go ahead and move in that direction quickly, I think we are going to be in better shape over the long haul.

The CHAIRMAN. I had reason to ask you this question, as to whether it was tribal policy, because 200 years ago when we by our Constitution committed ourselves to recognizing the importance of the Indian people and committed ourselves to the perpetual existence of a viable and healthy Indian population, there existed in the United States approximately 10 to 15 million Indians. At the end of the Indian wars of the mid-1800's, I believe the population came down to about 200,000. We can quibble over semantics but I suppose genocide would be an applicable word., Today we have about 1.4 million Indians residing in the United States, and the Navajo constitute 10 percent of that. That is why I asked you if it was a matter of policy, that you wanted to bring your tribe and nation back to the population you had 200 years ago.

Mr. HENDERSON. We will consider it as a tribal policy, probably. [Laughter.]

Mr. LESTER. It is my personal goal. [Laughter.]

The CHAIRMAN. Well, I just hope you have the wherewithal.

May I commend all of you for having spent all this time to assist us. May I also request that if you do have any recommendations which you feel would bring about an improvement to the measures before us, I welcome them, with the only requirement that they be submitted to us within 2 weeks because we would like to act on these as soon as possible.

With the gratitude of this committee and with the hope that we will be successful in the weeks and months ahead, I thank you all. We are adjourned.

[Whereupon, at 6:25 p.m., the committee adjourned subject to the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF STEVEN L. A. STALLINGS

The United Indian Development Association (UIDA) wishes to [redacted] Conditions. We apologize that the American Indian Reservation Economic Evaluation Matrix, used during my oral presentation on April 9, was not included as an exhibit in our written presentation. You will find enclosed a copy of the matrix and a description in detail on pages 9 through 16 of our written presentation.

Let me re-state in writing the UIDA recommendations given at the close of our testimony. UIDA recommends:

* Enactment of S. 721. the Indian Development Finance Corporation Act, to help solve the capitalization problems confronting American Indian enterprises;

* Requests joint hearings before the Finance Committee and Select Committee on Indian Affairs of the United States Senate on S. 788, the Indian Economic Development Act;

* Enactment of S. 788 to create reservation environments attractive to private industry;

* Reauthorization and amendment of the Indian Finance Act to improve current financing programs; and

* Amendment of the Buy Indian Act to improve preference contracting provisions and increase Indian business opportunities in the Federal sector.

We further recommend the inclusion of training and technical assistance in any and all legislation creating national Indian economic development policy. UIDA feels this can be best accomplished through the establishment of an American Indian National Center for Economic Development. We have drafted the enclosed paragraph describing the function, organization, and funding of such a center for your review and consideration.

UIDA again thanks the Committee for providing us this opportunity to discuss Indian economic development conditions. We look forward to working closely with the Committee members and staff on the legislative initiatives directed toward improving these development conditions.

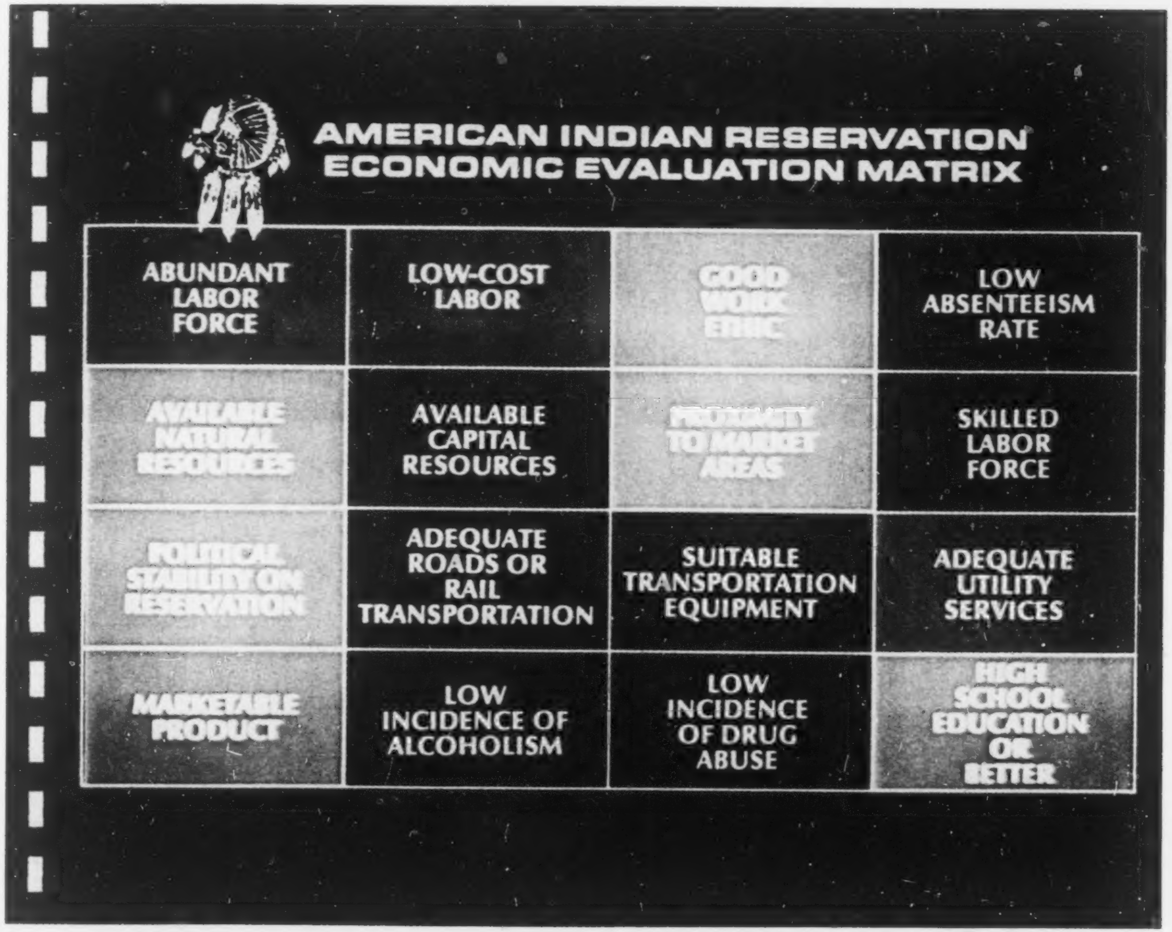
Respectfully yours,

Steven L. A. Stallings

Steven L. A. Stallings
President

DRAFT

There shall be established an American Indian National Center for Economic Development to initiate research, compile economic data, and serve as an information resource for Tribal governments in the field of American Indian economic development; assess training needs, create effective training models, implement training programs, and develop longitudinal evaluation data on financial assistance-training effectiveness in the field of American Indian economic development, including entrepreneurship; and operate a technical assistance clearinghouse for American Indian economic development to identify cost-effective delivery systems, determine effective technical assistance resources, and provide Tribal Governments and American Indian entrepreneurs with relevant technical assistance/information. The Center will perform socio-economic-cultural impact assessments to ensure economic development initiatives are sensitive to Tribal values. This American Indian National Center shall be awarded contracts under the Bureau of Indian Affairs in five year increments to allow for longitudinal data collection and research. The Center will operate with independence from the Bureau of Indian Affairs by provision of a National Advisory Council for American Indian Economic Development to provide policy and program direction and oversight comprised primarily of American Indian experts in economic development selected by the President and approved jointly by the Select Committee on Indian Affairs of the U.S. Senate and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.



AMERICAN INDIAN RESERVATION
ECONOMIC EVALUATION MATRIX

ABUNDANT LABOR FORCE	LOW-COST LABOR	GOOD WORK ETHIC	LOW ABSENTEEISM RATE
AVAILABLE NATURAL RESOURCES	AVAILABLE CAPITAL RESOURCES	PROXIMITY TO MARKET AREAS	SKILLED LABOR FORCE
POLITICAL STABILITY ON RESERVATION	ADEQUATE ROADS OR RAIL TRANSPORTATION	SUITABLE TRANSPORTATION EQUIPMENT	ADEQUATE UTILITY SERVICES
MARKETABLE PRODUCT	LOW INCIDENCE OF ALCOHOLISM	LOW INCIDENCE OF DRUG ABUSE	HIGH SCHOOL EDUCATION OR BETTER

Recommended Amendment to Indian Finance Act SB-721, SB-788 and Future Indian Economic Development Legislation

There shall be established an American Indian National Center for Economic Development to initiate research, compile economic data, and serve as an information resource for Tribal governments in the field of American Indian economic development; assess training needs, create effective training models, implement training programs, and develop longitudinal evaluation data on financial assistance-training effectiveness in the field of American Indian Economic Development, including entrepreneurship; and operate a technical assistance clearinghouse for American Indian economic development to identify cost-effective delivery systems, determine effective technical assistance resources, and provide Tribal Governments and American Indian entrepreneurs with relevant technical assistance/information. The Center will perform Socio-Economic-Cultural impact assessments to ensure economic development initiatives are sensitive to Tribal values. This American Indian National Center shall be awarded contracts from the Bureau of Indian Affairs in five year increments to allow for longitudinal data collection and research. The Center will operate with independence from the Bureau of Indian Affairs by provision of a National Advisory Council for American Indian Economic Development to provide policy and program direction and oversight. The Council will be comprised primarily of American Indian expertise in economic development, selected by the President and approved jointly by the Senate Select Committee on Indian Affairs and the Committee on Interior and Insular Affairs of the U.S. House of Representatives.

PREPARED STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

I want to commend Chairman Inouye for holding this general oversight hearing on Indian economic development. I think this hearing is both timely and needed in terms of finding workable solutions to the desperate economic circumstances that exist on Indian reservations today.

Toward that end, I again want to commend the Chairman on introducing S. 721, the Indian Development Finance Corporation Act. I am pleased to be a cosponsor of this legislation. I understand that a few of the witnesses appearing before the committee today are responsible for the body of work that went into developing S. 721. I look forward to hearing their testimony.

One of the solutions, I believe, to improve reservation economies will be the ability to attract private sector development. Toward that end, I have introduced the Indian Economic Development Act. S. 788 provides for the creation of enterprise zones on Indian reservation. I am pleased to be joined by Senators Inouye, Evans, Burdick, DeConcini, and Simpson.

One of the measures included in my bill encourages tribes and the private sector to prepare plans for conflict resolution. I look forward to any comments witnesses might have regarding legal barriers businesses have raised with me, such as not having recourse in civil and contract disputes.

Again, I thank the Chairman for holding this very timely hearing.

PREPARED STATEMENT OF CHARLES W. MURPHY

Mr. Chairman and members of the Committee, I am Charles W. Murphy, Chairman of the Standing Rock Sioux Tribe.

I am pleased to be asked to appear today before the Senate Select Committee on Indian Affairs on the very important subject of Indian economic development conditions.

For the past twenty-five years the Standing Rock Sioux people have experienced a continued severe and deep economic depression. Today the Bureau of Indian Affairs estimates that our unemployment rate is 79%. This unemployment rate level has been steady since its rise after the federal jobs programs were greatly cut back in the late 1970s. The toll in terms of social costs to the Tribe of this severe unemployment has been drastic.

The Tribe and its members have experienced high levels of all forms of social problems, from high rates of alcoholism to family breakdown and violent crime. I believe that these social problems are related to the lack of a productive economy and our high rate of income dependency. And our present income dependency is related to the removal and uprooting of a majority of our families from our homeland Missouri River bottomlands as the result of the construction of the Oahe Dam in 1960.

Yet, no focused or effective economic development strategy has been accomplished by either private sector capital or government investment capital in an effort to turn around this dependency which is destructive to our Tribe but also costly to the federal government. Instead, we have seen only piecemeal efforts by several federal agencies to establish economic development from time to time. The Tribe has always encouraged economic development, but our efforts often fail because of the Reservation's isolation and lack of infrastructure, compounded by lack of capital, management and labor skills.

As Tribal Chairman I have been frustrated at every turn in my efforts to increase productive employment at Standing Rock. Matters have been made only worse as I have watched many of our Indian cattle operators go out of business during this period. Indian cattle production was the one area where tribal members were participating in the productive national economy.

At Standing Rock, virtually all of the existing business development is owned by non-Indians. Stores in our communities are owned by non-Indians, and even contracting on federal projects to benefit Indians generally go to non-Indian firms.

One of the greatest obstacles to Indian participation is the lack of access to private capital. Local banks are extremely reluctant to make business loans to Indians. Often banks will require 100% collateral on deposit at the bank to provide any capital to an Indian business.

For the above reasons, I am encouraged to see the Senate Select Committee on Indian Affairs introduce important legislation in the area of Indian economic development. In particular I support the concept of S.721, the Indian Finance Development Corporation Act. I have written to my fellow tribal chairmen in the Aberdeen Area asking them to support this bill.

I see S.721 as a means to support and stimulate private sector investment in a developing economy such as Standing Rock. It can serve as an agent to encourage business skills development, investment capital formation and production on Standing Rock. It will foster and permit to grow those capital markets in Indian Country which have been absent up to this time. Local financial institutions simply do not have the technical skills or capacity to deal effectively with the problems of economic development or investment found in our income dependency environment at Standing Rock.

It will be important for the development finance institution to have a strong technical assistance capability and take an equity position in many of the bank loans. I also believe that, in our region in particular, the bank must be able to focus in the area of agribusiness and livestock production investments.

If the bank is implemented, many of the other areas which your Committee is addressing, such as S.788, the Indian Economic Development Act of 1987, and the Indian Financing Act of 1974, will have a greater and more successful impact.

Finally, I would like to offer that both the States of North and South Dakota have recently passed laws which established venture capital corporations which are designed, like the Indian Development Finance Corporation, to provide investment capital for the establishment of new business and industry in the States. Venture capital and development capital are ideas whose time has come in our region, and the Select Committee should be applauded for its efforts to get S.721 approved by Congress.

This concludes my prepared statement. I would be happy to answer any questions Committee members may have.

PREPARED STATEMENT OF GERALD I. JAMES

I appreciate the opportunity to testify before this Committee on Indian economic development. We are certainly encouraged by the increasing interest expressed by the administration and Congress in improving the economies on Indian reservations.

Since the passage of the Inidan Self-Determination Act of 1974, Indian Tribal governments have achieved dramatic advancements in the management of their own affairs. Although dependence on Federal assistance persists, Tribes are attempting to develop sustaining economies. There is great economic potential in Indian Country, but the development process has many obstacles and barriers.

Numerous recommendations have been made to assist Tribal governments in the development process. The proposals of the American Indian Policy Review Commission in 1977, the Report of the President's Commission on Indian Reservation Economies in 1984, and the 1986 Interior Department Report of the Task Force on Indian Economic Development, and the hearings by the Senate Select Committee on Indian Affairs have all produced strategies with merit. Most of these concepts, unfortunately, have never been implemented administratively or through legislation. Hopefully, the 100th Congress will begin to activate these ideas into reality.

Economic development on Indian reservations is obviously an extremely complex issue. The best way for me to illuminate the development barriers and potentials is to describe the Lummi Indian Tribes' experience and plans. Based on these experiences, I will conclude my remarks with some basic recommendations for your consideration.

Lummi Tribal Economic Development Goals and Strategies

The Lummi Indian Nation is committed to a future of self-sufficiency through economic and human resource development.

The Lummi Indian Tribe, geographically located on a peninsula on the Northwest Coast of Washington State, currently operates the largest American Indian fishing fleet in North America. A majority of the 2500 enrolled Lummi Tribal members depend on the fishing industry, either as independent fishermen or as employees in commercial Tribal ventures, for their livelihood. The 12,500 acre reservation borders prime commercial fishing and recreational boating areas as well as traditional shipping lines. The future self-sufficiency of the Lummi Tribe depends on the management, enhancement, and harvest of the fisheries resource; the carefully planned utilization of a natural harbor area; and, the attraction of private enterprise to the reservation.

The Lummi Indian Business Council has developed Tribal economic development goals and strategies designed to meet our unique development needs. In general, we seek to achieve social, governmental, and economic self-sufficiency through economic development initiatives such as the establishment of a Foreign Trade Zone, Enterprise Zones, a Port Authority, Indian-owned enterprises, and private business investments. We realize, of course, that all goods and services needed by the Lummi people cannot originate on the reservation. The creation of new employment and business and industrial/commerical development on the reservation will create the business climate for a broad variety of support services and supply operations. The eventual recirculation of dollars within the reservation through long-term industrial/commercial growth industries and their support enterprises will create an economic base for the Tribe, meaningful employment for our people, and a healthy economy for communities surrounding the reservation.

Educational & Social Development Are a Priority Concern

The development of the individual, the stability of the family, and the sense of community are key elements in the development process at Lummi. We are a fishing people which is seasonal employment. During fishing season, unemployment in our labor force is sixty-five percent. When the season ends, unemployment climbs to ninety percent. The stress of unemployment creates the socially destructive patterns of alcoholism, drug abuse, divorce, and child abuse among our people. As no other major employment options exist in the area, future employment opportunities will have to be created by the Tribe.

Commercial fishing as a future employment option has limitations. In 1974, Federal District Judge Boldt ruled in the case of U.S. v. Washington that Western Washington Indian Tribes were eligible to commercially harvest up to fifty percent of the salmon in their "usual and accustomed" fishing areas due to the treaty provisions. This landmark ruling, upheld twice by the Supreme Court, was a major employment opportunity for Tribal members. Over the past decade, Lummi Tribal fishermen have annually increased their share of the salmon harvest to the point of our fifty percent eligible share. Commerical fishing as an employment option for our Tribal youth is limited, further emphasizing the need to diversify our economy.

Over half the population of the Lummi Tribe is under eighteen years of age. As the attached graph illustrates, these youth will be emerging into our labor force in increasing numbers. We are encouraged by the numbers of youth attending post-secondary institutions including our own Lummi Community College. But the majority of our current labor force is untrained and many of our youth continue to drop out of school. The cycle of poverty and disintegrating social problems will continue unless meaningful jobs are created through economic development.

The Lummi Indian Business Council realizes several major initiatives need to be implemented simultaneously to break the poverty cycle and create a self-sustaining local economy. Business development on the reservation, such as the vertical integration of the fishing industry, port development, and support services industries will be required. Training of unemployed and low skilled Tribal members to become employed in these businesses is essential. Provision of social services, including individual and family counseling, to alter destructive behavior patterns is a necessity. Improvements of the infrastructure such as water and sewer, utilities, and roads to encourage commercial development is important. Accomplishing these initiatives with limited resources available from multiple Federal agencies will be, of course, a most demanding feat.

Economic development is viewed as a means to the end result of a self-sustaining Tribal economy. Our success will depend, ultimately, on the well being of the individual and the family. The family unit, functioning properly, is the most important element in our development plans. Lummi family bonds are the foundation of the Tribal community.

Fishermen's Cove -- An Economic Adventure

The Lummi Tribe's acquisition of the "Fishermen's Cove" business complex is an example of business development on the Lummi Reservation and some of the obstacles we hurdled in the process.

Recently, the Tribe purchased, through a Farmers Home Administration loan and a BIA Economic Development grant, a successful "Fishermen's Cove" business complex on the reservation which consists of:

a) Cove Restaurant
b) Boat and Engine Sales
c) Boat and Engine Repairs
d) Boat Hauling and Launching
e) Boat Storage
f) Boat Fueling Station
g) Retail Food and General Market
h) Auto Fueling Station

The previous non-Indian owners will co-manage the cove for a year to ensure successful transition to complete Tribal management. And, Tribal members are receiving on-site training combined with community college instruction to provide meaningful employment. Although this was a profitable business over several decades with the owners willing to co-manage the operation in a transitional year, private banks were unwilling to process a loan with the Tribe without Federal guarantees due to Tribal sovereign immunity. The Bureau of Indian Affairs regulations would not allow grant funds to be matched with a guaranteed loan. The successful loan application with the FHA required eighteen months to process. This FHA loan program, the only Federal resource available to purchase land, has now been eliminated by the current administration.

Lummi Fishermen's Marketing Association: A Success Story

The Lummi Tribe, seeking to expand business operations in the fishing industry, established a Lummi Fishermen's Marketing Association (LFMA) in 1986 with a $39,000 BIA economic development grant. Traditionally, Lummi fishermen have sold their daily harvest to local non-Indian buyers. the LFMA created a cooperative of successful Lummi fishermen who become stockholders through membership. The LFMA purchased the fish from the stockholders and sold them directly to a broker. The stockholder fishermen drew on their accounts to pay labor and expenses and utilized the aggregate LFMA account to assist in financing equipment needs. The LFMA gross the first year was $2.4 million with a net of $200,000. Thirty-seven individuals who were employed. The Tribe was paid $34,000 in B&O taxes. The LFMA gross is expected to reach $6.4 million in 1987 and plans to diversify its operations into the shellfish market.

The Lummi Foreign Trade Zone: An Unprecedented Charter to Attract Private Enterprise

The Lummi Tribe was awarded designation for a Tribally-chartered 120 acre Foreign Trade Zone (FTZ) in November, 1986 to attract domestic and foreign private enterprises to the reservation. The FTZ offers tax advantages for import-export operations and provides employment opportunities to Tribal members. Extensive time elapsed from our February 1985 application submission to our official designation due to Commerce Department legal counsel unfamiliarity with Tribal governments and our sovereign status.

Stable Tribal Governments Essential to Economic Development

Tribal government operational stability is the most important Federal investment in our economic future. Tribal governments, nationwide, now contract almost one-third of the BIA budget annually. The BIA and IHS administrators, unfortunately, shift Tribal program priorities and funding levels creating annual fluctuations in Tribal budgets. Often a Tribal administration will not have an official P.L. 93-638 contract level until six months into a fiscal year.

If the administration proposes major reductions in a program area in its budget justification, Tribal governments are forced to prepare their budgets to comply with the administration request including staff reductions while the appropriations committees are simultaneously restoring the programs. A budgetary make believe world results until appropriations legislation is finalized.

The Committee is urged to consider legislative remedies to fluctuating Tribal budgets by requiring that the BIA and IHS only be allowed a small percentage reduction in Tribal contract levels from year to year. The Tribal Councils should be allowed to determine reductions, if they occur, among the universe of its P.L. 93-638 contracts. Congress, of course, would have the authority to reduce Tribal appropriations, but the administration would not have such authority.

Federal Indian Programs Should be Consolidated and Coordinated Through One Federal Agency

Indian Tribes seeking Federal assistance must address a literal maze of programs, rules and regulations, policies and administrative procedures across the spectrum of Federal agencies. When multiple agency assistance is required to comprehensively address an issue, agency incompatabilities and protectionism often is the primary administrative concern. As an example, the establishment of an industry on a reservation could feasibly involve:

- The Economic Development Administration for the facilities construction loan
- The Indian Health Service for Sewer and Water capacity expansion
- The Bureau of Indian Affairs for an operational loan
- The Department of Labor for employee training

Coordinating these agencies with essential contributions to the total project within the necessary timeframes is a Tribal administrator's nightmare.

We propose the consolidation fo Federal assistance to Indian Tribes into one Federal agency with cabinet level status. The administrative savings by combining bureaucratic operations should be sizeable. The coordination of resources targeted to a Tribal initiative would be obviously simplified. Duplication of training and technical assistance would be eliminated.

Legislation should be considered to allow Tribes to contract for multi-agency, multi-year programs to provide expanded Tribal control over development. The level of Federal commitment would be negotiated annually depending on appropriation levels. This consolidated Federal assistance would be similar to current Federal assistance to territories or State Department foreign aid.

Federal or Private Political Risk Insurance Should Be Available to Alleviate Business Investment Apprehension

Tribal governments have difficulty securing loans from banks or attracting private enterprise to the reservations due to their sovereign immunity status. Legislative proposals for Indian economic development often include a waiver of sovereign immunity.

The waiver of Tribal sovereign immunity creates a vulnerability to legal challenges opening as broad and deep as this nation's ever-inventive legal profession could imagine. The suggested waiver of Tribal immunity will probably halt this well-intentioned legislation.

The Lummi Indian Tribe proposes that a viable alternative would be the creation of "political risk insurance" as the United States has offered the American business community as an incentive to invest in Third World Countries. Indian Tribal governments are not unlike Micronesia, Puerto Rico, or other Caribbean and Pacific island nations other than we are generally surrounded by United States territory rather than oceans.

As a prime example, the Overseas Private Investment Corporation was created by the United States in the late 1940's to insure investments against currency inconvertibility. The OPIC evolved in the 1950's to provide coverage for expropriation and war and expanded in the 1960's to cover revolution and insurrection as well as offer loan guarantees and feasibility study assistance. By the 1970's OPIC was established as a separate, business-oriented agency mandated to:

> "mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed, friendly countries and areas."

The OPIC promotional literature describes the operations as providing:

> "qualified investors with insurance against certain political risks; loan guarantees; direct loans to small businesses and cooperatives, and a variety of pre-investment and investment-encouragement programs. All are designed to reduce the perceived stumbling blocks and risks associated with overseas investment."

If we spoke of a Tribal Private Investment Corporation (IPIC) and inserted the term "Indian Reservation" for the terms "overseas" or "less developed, friendly countries and areas," wouldn't we be describing a proven effective Federal initiative? Tribal political risk insurance, guaranteed by the Federal government as is the case of OPIC insurance, would insure investors against losses directly attributable to Tribal government actions which negatively impact corporate operations.

In conclusion, I remind the Committee members that Indian Tribal governments exist today due to treaties our forefathers negotiated with your forefathers several generations ago. Representatives from our governments came to agreements with representatives of your government. As the bureaucracies dealing with Indian Affairs expanded, the importance of Tribal governments somehow diminished in the process. The stability and welfare of Tribal governments, however, should be the priority concern of Congress and the administration.

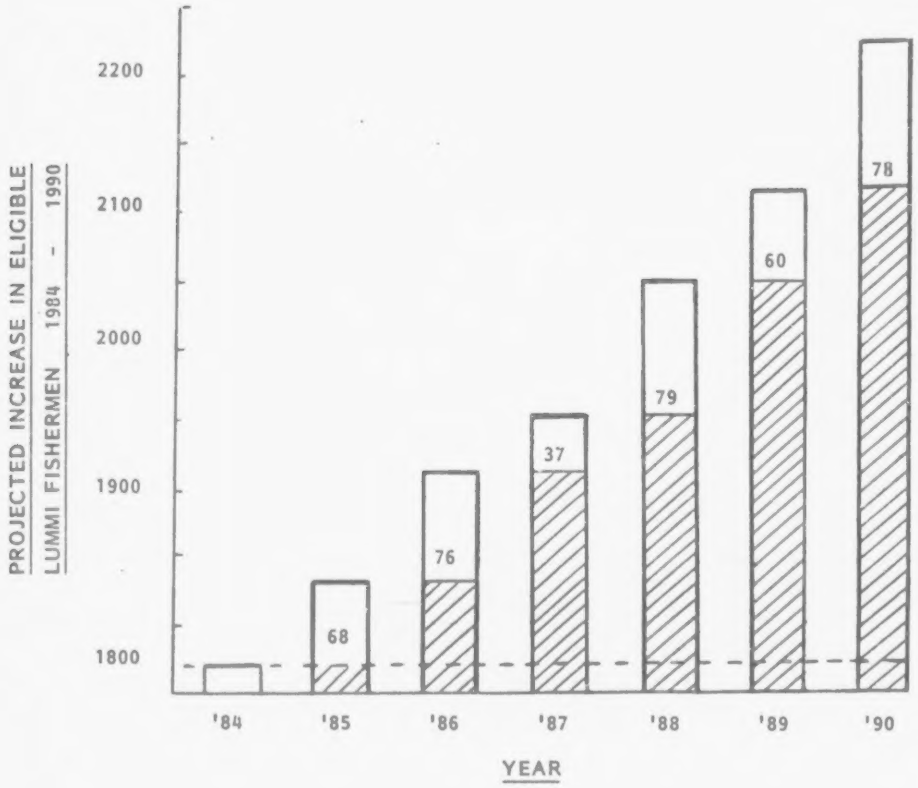
Numerous recommendations have been made to assist Indian Tribes develop economically. We certainly have problems on the reservation, but none are insurmountable. We appreciate the legislation introduced or planned for Indian economic development. We hope legislation will be approved in the 100th Congress to make many of these recommendations a reality for Indian Country.

Thank you. I am available for any questions.

We currently have 1,817 tribal members who are eligible to fish. About one third of those eligible are registered with the tribe to fish commercially and half of those registered are considered full time fishermen. This group of 300 + fishermen has witnessed the implementation of the equal sharing provision of U.S. v Washington, a period of rapid growth in the treaty commercial fishery.

As the tribal population grows more and more members will become eligible to fish. In 1985 68 members will reach the age of 18, in 1986 another 76. The proportion of those newly eligible members who choose to fish full time is expected to be as high as or higher than at the present time due to the relative success of Lummi fishermen during the post Boldt years.

Projected over the next six years (85-90) 398 tribal members will become eligible to fish. If three quarters of those choose to fish full time the number of full time Lummi fishermen will double.



PREPARED STATEMENT OF ERIC NATWIG

My name is Eric Natwig. Thank you for inviting me to participate in this hearing. I would like to comment on barriers to Indian reservation economic development based upon my fifteen years of experience working for a number of Indian tribes and organizations. Allow me to summarize that experience to illuminate my perspective.

I am a financial advisor to the Council of Energy Resource Tribes, where I am responsible for advising member tribes on business start-ups and raising capital. This work includes organizing financial institutions and investment vehicles for Indian businesses and communities. I have been an organizer of the Blackfeet National Bank and First American CALBIDCO, a licensed long-term lender owned by the United Indian Development Association. I spent five years in the Navajo Nation where I prepared the Tribe's development plans and secured funding for $30 million worth of projects.

As a member of the team which designed the American Indian Development Finance Institution, I prepared a paper on institutional barriers to financing development projects in Indian country that was based upon a review of the literature at that time. That paper, which was recently included in a committee print for this Committee, summarized a number of recent reports which dealt with problems encountered in promoting enterprise development and the difficulty in obtaining capital on Indian reservations.

The Joint Economic Committee in 1969 published a Compendium of Papers dealing with development prospects and problems on reservations. In 1975, the General Accounting Office prepared a report which discussed the effectiveness of federal efforts to improve economic conditions on Indian reservations. In 1976, the American Indian Policy Review Commission, in its Task Force on Reservation and Resource Protection and Development, explored issues arising out of increased tribal involvement of their reservations in light of federal government policies and programs. A second report by GAO in 1978 determined that more federal efforts were needed to improve Indians' standard of living through business development.

Recently, this Administration's Presidential Commission on Indian Reservation Economies published a report which analyzed the barriers to economic development in order to develop a new federal policy approach.

There is a concensus in the literature that the barriers to Indian economic development arise from the economic and institutional environment unique to reservations.

Economically, most Indian reservations are located on lands which possess marginal resource bases remote from major markets. Transportation access to these reservations is difficult and expensive. Furthermore, most reservations are thinly populated. Indian management expertise and entrepreneurship of any significance is only recently emerging. Capital for investment is unevenly distributed among tribes. In such an environment, the task of establishing truly profitable businesses is very difficult.

The institutional barriers to business development and access to capital arise from the legal and administrative structures on reservations that are significantly different from those of most communities in the United States. In particular, the trust status of Indian lands and resources generally has meant that these lands and resources cannot be pledged as collateral. This fact, coupled with tribal immunity from suit, tribal court jurisdiction and evolving tribal taxing authorities has lead many businesses to shun Indian reservations.

In the absence of any significant private sector on reservations, tribal governments have become the only viable large scale developers of their lands. To date, however, the conflict between a business' need for flexible and fast decision-making and the government's responsibility for deliberation of issues has forced the tribes to move slowly on business opportunities and lose them. The federal government has thrown substantial money at reservations, but lacking business acumen, federal support has been characterized by inadequate project review and monitoring, inadequate technical assistance, and insufficient funding.

The perspective that I have gained over the years leads me to believe that some of the concerns are overstated. I see these conditions not so much as barriers, but constraints. Some Indian reservations contain economically valuable resources, including coal, oil and gas, industrial and precious metals, and timber and agriculture products, covering vast tracts of land. Since the tribes did not rush pell mell to exploit their energy minerals during the energy crisis, and have not fully developed their agricultural potential, there still exists a resource base that could produce new business opportunities in such areas as synthetic materials, textiles and food processing. In addition, large parcels of land under single ownership can represent significant real estate and industrial location opportunities.

In addition, I believe that the legal hurdles to business development on Indian lands can be surmounted. Where there is a resource in demand, like coal or oil, on Indian lands these barriers are overcome. Careful and knowledgeable preparation of contracts can anticipate and resolve issues of investor risk and recourse. For example, leasehold mortgage interests or certificates of deposit may be used in place of land and resources as collateral for loans. Contract documents can specify specific waivers of immunity restricted to the amount of project financing, to be adjudicated in federal court or by third party arbitration. Tax liabilities can also be specified in contract documents.

The role of tribal governments as promoters of business development on their reservations was taken to task in the findings of the recent Presidential Commission. There seems to me undue criticism of tribal efforts to establish and operate large-scale businesses which generates export income, which in turn makes small businesses possible (especially as transfer payments are cut back).

The strong directive role of tribal governments in reservation economic development is a necessary and appropriate role. For the most part, there is only a very limited private sector on reservations. Indian individuals typically have neither the capital nor the expertise to build a viable reservation economy by themselves. Only tribes, as the major property and resource owners, are able to organize the resources for a development program of the scale necessary to significantly improve reservation conditions. This does not mean that tribes should preempt entrepreneurial members who are capable of establishing smaller enterprises on their own. I believe the successful implementation of a development program must be led by a tribe, built around the uncommitted resources still in its control, in partnership with joint-venture partners, including tribal members, to fashion a viable diversified reservation economy. Tribes can organize successful enterprises which take advantage of the tribes' tax-exempt status, resources, and capital which are insulated from political interference and are professionally managed. With strong management and sound business plans, conventional financing can be secured.

A source of patient capital organized by the tribes and federal government, which is familar with the economic opportunities and institutions of Indian reservations and properly structured and staffed, could augment traditional sources of financing and spread the risks. An institution as proposed in Senate Bill 721, could assist those tribes with limited investment capital and could coordinate infrastructure investments by federal programs. By itself it is not likely to have major impact. If this institution were combined with tribal ability to raise capital under the same terms and conditions as other local governments, tax incentives to make Indian labor costs competitive with foreign labor costs, and infrastructure investments to overcome reservation transportation cost disadvantages, I believe that significant amounts of private capital will flow to reservations.

It has been a great opportunity to work with tribes to help develop the internal capabilities and confidence to sponsor development projects of scale. It is my belief that S. 721 and other legislative initiatives proposed by this Committee could not be more timely.

Thank you for this opportunity to share my views with you.

PREPARED STATEMENT OF RONALD L. TROSPER

Thank you for the opportunity to testify before you on the subject of Indian economic development. As one of those who worked for Task Force Seven of the American Indian Policy Review Commission, I am particularly glad to see that Senator Inouye has introduced a bill to create an Indian Development Finance Corporation. I am employed by my tribe as an advisor on economic affairs and would like to share with you some of the experiences of the Confederated Salish and Kootenai Tribes which are relevant to the issue of economic development on Indian reservations. I will conclude with some comments on capitalization of the proposed Indian Development Finance Corporation.

As you know, Task Force Seven identified three conditions for economic development on an Indian reservation: control, capital, and management. Nothing in my work since then has led me to change this three-fold classification. I have, however, learned much about the relationships among the three. Compared to other tribes, mine has valuable resources and a steady income from them. Although we are still poor, and still have too few jobs compared to the need, we do have advantages. We have been able to find capital when needed. Because of this, our attention has focused upon management and control. Our experience illustrates that one factor alone is not enough. To make capital productive, one needs good management and the ability to control the resources which produce income and other values.

Our main resources are a forest, several hydroelectric sites, and opportunities for water-based recreation. The prime farmland passed out of Indian ownership early in this century, as did the homesites along Flathead Lake. We are a minority on our own reservation. Indians and their families make up only one-quarter of the reservation population. Until recently, the Tribe's method of earning income from the resources has been to receive stumpage for timber and to lease the primary hydroelectric site. These conditions are now changing.

Twelve years ago, we established a tribal enterprise which makes fencing materials from lodgepole pine. Flathead Post and Pole purchases material from tribal members who harvest it from tribal land. Initial capital came from tribal income and the Economic Development Administration. Control of the resource occurred because the Bureau foresters did not believe that small lodgepole pine had any value. Consequently, they had started to destroy stands of post and pole material in in the hope of growing sawlogs. The Tribal Council said no to this. Our major stumbling block was finding adequate management. Flathead Post and Pole currently operates profitably. We have achieved all three conditions: capital, control, and management.

We are presently expanding the product line to include manufacture of wood trim from lodgepole pine sawlogs. The raw material will continue to be harvested by tribal members. The expansion is funded by a public works grant from the Economic Development Administration, a loan from the Montana Economic Development Board through a local bank, and tribal funds. Whether or not we have control of the sawlog component of the lodgepole pine resource is still an open question. The BIA appears to want to treat the mill as a non-Indian purchaser, using a standard contract for the sale of timber. Our situation is not really provided for in the Code of Federal Regulations. The issue is still in a negotiation phase; other tribes with mills have reached accommodation with the Bureau.

In the development of hydroelectric sites, we have achieved all three conditions for a small-scale site on Boulder Creek. This 350 kilowatt plant produces about two million kilowatt hours a year. It was completely funded by the Tribe, and was built at a site not in use by others.

We also operate a firm which produces for the federal government, S & K Electronics, Inc. This enterprise was funded by a combination of tribal and federal funds. It does not use a major reservation resource.

All three of these enterprises are managed by tribal members; Flathead Post and Pole and Boulder Creek are profitable, which is an easy measure of success. The third is not out of its shakedown stage. We have had the capital and had to learn to make money in each of the enterprises as we went along. In terms of timing, management followed capital. And the management acquisition has been a self-help affair. The losses in the early years of Flathead Post and Pole have not yet been made up by subsequent profit.

Control has proved to be the most difficult of the three conditions for us to obtain. We have often gone to court ourselves in order to establish our right to control a resource, or we have been taken to court when we have tried to control a resource.

This is best illustrated by Kerr Dam. We own the site occupied by Kerr Dam, below the mouth of Flathead Lake. We do not own or operate Kerr Dam itself. Kerr has an average capacity of 115 megawatts and an annual production above one billion kilowatt hours. The original license provided that the annual charge would be adjusted if the generating power of the dam were increased, and at regular intervals after the first twenty years. We had to go to court for each rental increase.

We applied to become the licensee when the original license expired in 1980. Officials of the Federal Energy Regulatory Commission put both Montana Power Company and the Tribes under pressure to negotiate a settlement rather than have FERC choose one or the other. The negotiated outcome was that we have become a joint licensee with the Montana Power Company. Montana Power Company will own and operate Kerr Dam until 2015, when we can purchase it at original cost less depreciation and then operate it for the subsequent twenty years. Our plan is to develop the management skills between now and then, while accumulating the funds needed to purchase the dam. The annual charge, or rental of the site, is over nine million dollars a year. It is indexed to the Consumer Price Index. Thus, none of the three conditions yet apply to Kerr Dam; but they are scheduled for the future. At least the wait now has a fixed term.

As part of developing management and technical skills, we have taken advantage of a recommendation made by the Department of the Interior that we contract under Public Law 93-638 to operate the retail power distribution system on the reservation. This has met with resistance from the Joint Board of Control, which represents the irrigators who obtain water through the Flathead Agency Irrigation Division. The contract is now on hold while the courts review the merits of our opponents' objections. We feel that the Indian Self-Determination Act is clear, and that we have a right to contract this particular Bureau program.

Our difficulties illustrate the barriers to control when the neighbors of Indians are afraid of the consequences. I want to note that our proposed management structure of the power distribution system provides for input both by consumers and by local county governments. Such input is not solicited at present by the Bureau of Indian Affairs. Ownership of the facilities and regulation of rates will remain with the federal government. Distribution of net revenues will remain as specified by law. Net revenues are used to repay construction costs of the irrigation and power systems and to upgrade the power facilities. No "profit" will be earned by the Tribes. Our interest is developing expertise in a sector which is in our long term economic development plans.

We face difficulties in the control area regarding the forest as well. These difficulties have occurred in two forms:

managing the forest for multiple uses (those uses other than production of sawlogs) and in selling lodgepole pine sawlogs to our mill. Our definition of output from the forest is broader than production of lumber from the forested land. Since the BIA is trying to be responsive to our desires on these two problems, I do not want to make a large issue out of this, other than to note that we are frustrated with the amount of negotiation involved. I think the difficulties will be resolved far sooner than we will have control of Kerr Dam.

I have noticed, however, that each increase in the annual charge at Kerr Dam has led to a change in the relationship between BIA forestry personnel and our Tribal Council. With the annual payment for Kerr Dam now totaling more than nine million dollars a year, we are not as heavily dependent on the sale of timber for income as we once were. The Council can refuse to sell timber if they feel the price is too low. The Council has insisted upon multiple use review of each sale; suggestions that such review processes would delay a sale are no longer persuasive. An increase of tribal capital, i.e., more rental for Kerr Dam, has led us to be able to exercise more control over our timber resource.

The recreation resource is a third area where control is a big issue. We own the bed of the south half of Flathead Lake below the high-water mark. This ownership was in dispute until resolved by the federal courts in 1982. We are concerned about the quality of fishing and the habitat along streams on the reservation. This issue has been to court twice recently, in the summers of 1985 and 1986.

The point of all this is that neither capital nor capital combined with management are panaceas for development in directions desired by an Indian tribe. When the federal government establishes an entity such as an Indian Development Finance Corporation, members of this committee should not expect development to flow quickly from that unless the management and control issues are also addressed. Tribes will be starting down the road which my Tribe is already on. They will find barriers much like those we have faced and are facing, unless, like the Mississippi Band of Choctaw Indians, they have so few resources in the first place that their development activities rapidly become something desired rather than opposed by their neighbors. Those staff members of the new Corporation who do not have experience in Indian affairs will be surprised at the unusual obstacles faced by a resource-rich Indian tribe.

I would like to suggest that there are two types of control: nominal control and actual control. Acquisition of nominal control without simultaneous acquisition of capital and management cannot create actual control. On the other hand, acquistion of capital, management, and technical skills without nominal control can, with time and struggle, lead to actual control. That is what is occurring on the Flathead Indian Reservation in all three of the resource areas: hydropower, forestry, and recreation. Creation of an Indian Development Finance Corporation without addressing control issues will mean slower development; but development will occur nonetheless.

I want now to change the focus away from describing my tribe's experience to some general issues raised by the research which went into the proposal for creation of an Indian Development Finance Corporation. I think most observers of Indian affairs have a sense that the funds spent in the last two decades should have had greater impact than they have. The funds have had some successes; it is the magnitude of the success that seems lacking. I say "seems" because part of the problem is the lack of statistics, as pointed out by Stephen Langone in 1969 and again last year by the Interior Department's Report Of the Task Force on Indian Economic Development. The tabulation of statistics from the 1980 Census is useful; but ten years between data bases is a long wait.

Ironically, when it comes to economic development, federal agencies are much more short-sighted than are Indian tribes. Most of the reasons for this are structural, outside of the control of civil servants and even members of Congress. The federal budget cycle focuses everyone's attention on immediate measures of success. Federal officials do not use capital accounts; all expenditures, even for capital equipment, are classed as current expense. Federal officials have little experience with or understanding of business financial systems. America's business sector may not look as far forward as do the Japanese; but they do look farther than do federal agencies involved with Indians.

For some reason, the agencies are subject to fads when it comes to economic development on Indian reservations. We have had the tourism fad, the housing construction fad, a brief buffalo herd fad, and now federal contracting. Reservations are so diverse that there is no one single or even one short list of good, simple answers for Indian economic development. Our lodgepole pine industry cannot be a model for everybody; and we would get nowhere if we made exact copies of some successes from other reservations that are much unlike us. But current federal agencies do try to over-generalize success.

This past year, we looked at developing a hotel and convention center on Flathead Lake. After several months of research, we found that the market prospects were not as great as we had thought; also, the construction costs were going to be greater than first estimated. But in the meantime, possible funding sources in the federal agencies had become very excited about the project and were visibly disappointed when we said no. The momentum builds too fast; there should be more scepticism.

An entity that is not subjected to the present federal structure would be more critical, particularly if its success and future existence depended upon selection of feasible projects rather than projects whose sole success is measured by the numbers of jobs created initially. I do not want to focus attention exclusively on "financial profit" as the measure of success. Our post and pole operation is a success in many dimensions other than profit, such as in reducing unemployment and utilizing a resource which otherwise would be subject to disease and fire. Project selection criteria need to be broad; but they must include some minimum level of financial feasibility. Actually, firms in America's private sector do not have a single goal of making a profit; maintenance of market position, compliance with the law, protection of managers, and smooth relations with the labor force are all examples of the existence of multiple goals. Indian communities have a different list of goals. A successful financing institution would back projects that satisfy Indian communities.

What is the magnitude of the capital need? I provided two ball park estimates in the Compendium published by this Committee last year. In 1979, the total capital gap lay between four and eight billion dollars. I estimated the four billion figure by applying a capital-labor ratio to the number of needed jobs. I estimated the eight billion figure by applying a capital-income ratio to the income gap between Indians and the general population. With prices updated to 1986, these estimates would change to between five and ten billion dollars. Tangible real capital owned by Indians, plant, equipment, and inventories, would have to increase that much from its current level to get Indian incomes and jobs up to national standards. I realize no one takes this as an estimate of the initial capitalization of a development finance institution. The full amount certainly would be too great at first. Start-up questions need to be addressed. A new entity needs to learn how to do its job. Indians need to learn how to bring management to the projects, and Indians will need to get control of key resources. The new institution will need to take a long-term viewpoint, and keep in mind that it took the last 100 years, from 1887 to 1987, to create the gap.

I would like it very much if tne federal government were to celebrate the centennial of the General Allotment Act by establishing a series of programs and institutions which would undo the damage done by the allotment policy. When the Census Bureau declared in 1890 that the frontier no longer existed geographically, Indians were still owners of the reservations on which they lived. By 1934, when the Indian Reorganization Act brought the allotment era to a close, the transfer of assets which accounts for today's poverty had been accomplished, with the exception of the transfers yet to come from federal water projects, from termination, and from underpriced resource rentals. I spelled out the effects of the allotment policy in causing poverty on the Flathead Reservation in my Ph. D. dissertation in 1974. A correct understanding of Indian poverty in the present requires examination of the taking of assets without full compensation.

Many readers of my dissertation thought I would go on to propose land reform in the other direction, a return of the lost land which now manifests itself in the checkerboards on most reservations. The Constitution appears to limit the ability of the government to reverse the process (although the Supreme Court did not believe that when the allotment policy was implemented). Land is an asset with more dimensions than capital. Provision of capital seems to me to be a partial substitute for land. Some tribes and individuals would need to purchase land in order to establish the businesses contemplated in your bill. If the land were purchased on the open market, the problems of federal taking which Indians suffered would not then be repeated. I have in mind here the situation in Arizona, where land is being returned to the Hopis, when the occupiers of the land, the Navajo, are not willing sellers. Is it at all believable that the federal government would uproot non-Indians in a similar manner? When the federal government does not obtain land from willing sellers, I find it hard to believe that the transaction was fair for the seller.

If the initial funding of a development corporation is approximately $125 million, with $100 million of that federal funds, the scale compared to the problems is off by two orders of magnitude. Even if the new entity were to grow quickly to 10 times its capitalized amount, to one billion dollars, the problems would be larger. The need is between five and ten billion dollars, not $100 million to $1 billion. Since annual federal expenditures are about one trillion dollars, we are discussing a need which is less than one percent of the annual federal budget. I would recommend that the Committee get some idea about how long the development process is expected to take before Indians are able to accumulate sufficient capital to close the gap created through the land transfers of the last century.

Members of this committee, and your constituents, may not be much moved by the argument I have just outlined. America is well known for its short memory; awareness of the causes of Indian poverty may not be sufficient justification for a program to eliminate it. Let me outline another argument, this one looking to the future. What savings in federal expenditures, and what increases in federal tax revenue, would occur if Indian incomes and employment increase? What would be the rate of return on the federal investment in Indian country? I would like to repeat here a calculation presented by the Interior Department in its *Report of the Task Force on Indian Economic Development*, chapter 6, pp. 173-210. I also want to make a similar calculation for the investment now being made by the Economic Development Administration and the Montana Economic Development Board in Flathead Post and Pole.

The Interior Department's task force collected data on the costs of AFDC, Food Stamps, commodities, and general assistance on a state-by-state basis, using the actual rules in practice. They also examined income tax payments under the 1984 tax rates. They computed that an investment of $10,000,000 which created jobs for 300 unemployed heads of households would lead to a combination of tax receipts and welfare savings for the federal government and for states that would amount to approximately $1,760,000 per year. On an investment of ten million dollars, that gives an accounting rate of return of 17.6 percent per year. The economic rate of return would be higher, because there would be increased profit and wage income as well.

Putting people to work helps government budgets. In making this calculation, the Task Force assumed that the jobs paid an average of $6.00 per hour; that sixty percent of the heads of household are from four-person families, 30 percent from three-person families with one adult, and 10 percent single persons; and that their welfare payments were weighted averages of rates for the entire US. The weights were Indian population by state.

I have taken their figures for Montana and calculated a similar result for the expansion of Flathead Post and Pole. The federal government has contributed $355,000 as a grant. Montana has lent $319,500 at an interest rate of 9.4 percent, with a BIA Guarantee, and a local bank is lending us $35,500 with no guarantee but a good rate of return. The total outside government funding is, therefore, $674,500. The Tribes are contributing over $250,000.

The expansion will create 45 full time jobs, which are fewer than the number of Indians seeking work on the reservation. Using the Task Force's numbers, and the fact that on the Flathead Reservation we use commodities, not food stamps, the average annual decrease in the federal and state budget deficits is $5,955 per job. This figure uses 1984 tax rates, but does not include employee and employer contributions for social security, which should be included. I have left out social security payments for comparison to the Task Force results, and also because tax rates at the lower income levels have been decreased by tax reform. The annual benefit to governments is, therefore, 45 times $5,955, for a total of $267,975.

This is an astounding return of 40 percent; the government contributions are paid off in 2.5 years. Social security taxes, at 14.3 percent of salaries, would add another $1,785 per job per year. The United States and Montana will also benefit from increased local income due to multiplier effects. I believe an Indian Development Finance Corporation would have wanted to share in this particular project. We are much appreciative of the BIA's loan guarantee, which made the money from the State of Montana available. We are also much appreciative of the contribution from the Economic Development Administration.

Congress has rejected each of the Reagan Administration's proposals to eliminate EDA. The purpose of this elimination is to decrease the federal deficit. These calculations show that such a decrease in the current federal deficit will, by failing to create new job opportunities, leave larger deficit problems in the future in the two areas which have been declared off-limits for policy changes: transfer payments and taxes. I would anticipate that opposition to establishment of an Indian Development Finance Corporation would also contain complaints about the current federal deficit. Properly evaluated, however, the effects of creating new, viable enterprises in Indian communities will be seen to ease the problem of the federal deficit, not increase it.

I would like to summarize this presentation by reviewing each of my points in reverse order. Establishment of a development corporation can be justified prospectively by computing the decrease in welfare expense and the increase in federal taxes which occur when unemployed people are put to work. Provision of capital to Indians and Indian tribes can be justified historically by citing land and resource transfers which occurred at too low a price.

I began by considering the relationships among three conditions of economic development: capital, management, and control. Success requires all three. Progress can be made, however, when only one or two of the conditions are present. Flathead Post and Pole began with control and capital; we developed management. In the case of Kerr Dam, we used our funds to hire the expertise needed to create the confrontation which produced the joint license. The license puts acquisition of control on a schedule. We can proceed to develop management prior to the year 2015. We have already used working capital to develop the 93-638 contract for operation of the power distribution system on the Flathead Reservation. The contract itself provides for hiring of qualified managers. The major capital involved consists of the poles, lines, substations and other equipment, which has been funded primarily by power consumers; title for that capital will stay with the federal government. If the courts approve the contract, then the Salish and Kootenai Tribes can use the Indian Self-Determination Act to obtain the opportunity to prepare ourselves for the eventual operation of Kerr Dam.

Our tribe has been able to use existing sources of capital to support our business sector. Our experience shows that capital is important. Full success requires all three conditions. Capital with control can lead to good management, as shown by the post and pole portion of our tribal enterprise. Capital and management together are leading to control of the sawlog component of lodgepole pine lands. A new institution providing capital and operated by people knowledgeable about business and business management will contribute to improvements of living standards and of self-determination in Indian communities.

PREPARED STATEMENT OF ERIC D. EBERHARD

I want to thank you for inviting me to be here today to participate in this hearing. I also want to commend you for the emphasis you are placing on economic development issues in Indian Country.

All of us who work for Indian people know that the lack of economic opportunities both on and off of the reservations continues to be one of the most important issues in the daily lives of Indian people. Hearing after hearing and study after study have documented the poverty and underdevelopment which plagues Indian communities. It is encouraging to note that we may finally be coming to a point where the causes of underdevelopment are understood well enough for workable solutions to be designed and implemented. In this regard, the members of this Committee and in particular Senator Inouye and Senator McCain are to be commended for their efforts to promote Indian economic and business development through innovative federal legislation.

S.721, The Indian Development Finance Corporation

Act, sponsored by Senator Inouye, deserves full consideration by the Congress. The concepts contained in S.721 reflect years of first-hand experience of people who have actually been involved in efforts to develop Indian economies. Similarly, S.788, The Indian Economic Development Act of 1987, sponsored by Senators McCain, Evans, Inouye, Simpson, Burdick and DeConcini reflects years of careful thought and practical experience. There is no doubt in my mind that passage of these two bills would do much to create real economic opportunities for Indian people.

Among the many reasons why these two bills deserve careful consideration by the Congress is that they seek to promote Indian economic development without doing harm to the basic principles of federal Indian law. These bills will not impair or diminish the trust relationship or the right of tribal self-governance. Enactment of the bills would not alter the careful and historic jurisdictional balance between tribal, state and federal governments. Both of the bills are consistent with over two hundred years of federal policy to promote Indian self-sufficiency.

The United States Constitution provides that the Congress has the power to regulate trade and commerce with the Indian Tribes. Art. I, Sec. 8, Cl. 3. From the very beginning Congress has taken extraordinary steps to attempt to protect Indian property and to promote the welfare of Indian people. The very first Congress declared in the Northwest Ordinance of 1789 that the "utmost good faith shall always be observed toward the Indians ..." 1 Stat. 50, 52. In 1790 Congress enacted the Non-Intercourse Act, 1 Stat. 137; 25 U.S. 177 to protect Indian lands from divestment through state or private actions. These early policies of the Congress have continued over the course of the last 200 years, although often with mixed results.

Today, the United States holds about 40 million acres of lands in trust for Indian Tribes and individuals. Contracts, liens or other encumbrances on these trust lands are void without proper federal approval. See, for example, 25 U.S.C. § § 81, 177 and 391-415d. Commerce and trade between Indians and non-Indians is regulated by federal law. Eg. 25 U.S.C. § 261-264; Rockbridge v. Lincoln, 449 F.2d 567 (9th Cir. 1971).

The federal courts have fashioned a substantial body of law which bears directly on Indian economic development. Tribes are regarded as "domestic dependent nations." Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831). As such, Tribes retain their inherent sovereignty and right to be self governing. State laws generally have no applicability on Indian lands. Worchester v. Georgia, 31

U.S. (6 Pet.) 515 (1832); Williams v. Lee, 358 U.S. 217 (1959). Among the reasons for the creation of reservations is the policy of Congress to promote Indian self-sufficiency and self-governance Alaska Pacific Fisheries v. United States, 248 U.S. 78 (1978).

Some economic and legal experts have stated that the trust status of Indian lands constitutes an insurmountable barrier to Indian economic development. Based on my own experience in assisting Tribes and individual Indians with business and economic development over the last fifteen years, I submit to you that this is not the case. The trust status of land can certainly be a constraint on economic development, but it is by no means an insurmountable barrier. Because Indian lands are held in trust, they generally cannot be pledged as collateral to secure such credit as may be necessary for economic and business development. However, there are other known ways to provide collateral for loans. Leasehold mortgage interests have been successfully used in some situations. Federal or tribal loan guarantees have also been used successfully. Stable, long-term revenue streams from natural resource leases or Tribal taxes can also be used as loan collateral. Other kinds of incentives such as tax and regulatory waivers can also be employed to create intangible collateral.

Another perceived impediment to Indian economic development is the legal doctrine of Tribal sovereign immunity. In general, Tribes are immune from suits unless that immunity has been waived by an Act of Congress or by the tribe itself pursuant to federal law. Santa Clara Pueblo v. Martinez, 436 U.S. 49, 58 (1978); Namekagon Development Co. v. Bois Forte Reservation Housing Authority, 516 F.2d 508 (8the Cir. 1975). While it is correct to say that that the doctrine of Tribal sovereign immunity can create special problems in Indian economic development, there are known solutions to these problems. Congress recognized this fact over 50 years ago with the provisions of the Indian Reorganization Act. 25 U.S.C. § 477 specifically provides for the creation of Tribal business corporations and limited waivers of sovereign immunity for those corporations. Today, even non-IRA Tribes have established Tribal corporate entities and empowered them to enter into limited waivers of immunity. In most cases, such waivers are limited to the extent of the assets of the corporate entity.

Related to the question of sovereign immunity is the question of tribal, state or federal jurisdiction over dispute resolution. Unless the Congress has acted to confer jurisdiction on the states, then the states do not possess any jurisdiction over the Tribes, Tribal lands or Tribal members while they are engaged in activities on trust lands. See, for example, 28 U.S.C. § 1360 and 18 U.S.C. § 1162;

Bryant v. Itasca County, 426 U.S. 373 (1976). In some situations, the absence of federal or state jurisdiction may be seen as an impediment to economic or business development. This may be particularly true where tribal judicial forums and business codes are not well developed. In these instances, arbitration of disputes may be a workable solution. In addition, it is sometimes feasible to provide for jurisdiction in Tribal court, but to provide that state statutes will be the basis on which the Tribal court will decide a dispute. In all instances, it is very important to structure the contracts so that no party has a perceived interest in disputing performance or breaching the terms.

There are other unique legal issues involved in Indian economic development. Questions about Indian water rights, applicability of customary or traditional Tribal laws, and overlapping taxation powers are but a few. The point to be made about each of these legal issues is the same: There are practical solutions to any of the perceived legal barriers to Indian economic and business development. Developing those solutions in the context of any particular contract will take great care and the application of extraordinary legal, business, financial and economic expertise. This translates directly into the need for consistent and comprehensive technical assistance to Indian Tribes and individuals engaged in business and economic development activities.

I believe that S.721 and S.788 will be invaluable new tools for the promotion of Indian economic development. Both of these bills go a long way toward recognizing the unique factors involved in building a productive economy in Indian country. Both bills provide the kind of flexibility which is necessary to meet the wide array of situations encountered from Tribe to Tribe and community to community around Indian Country.

Again, I thank the Committee for this opportunity to share my views with you.

PREPARED STATEMENT OF PHILLIP MARTIN

My name is Phillip Martin, and I am the elected Chief of the Mississippi Band of Choctaw Indians, a federally-recognized tribe of some 4,600 members living on and near about 22,000 acres of trust land in east central Mississippi. I have had the honor to work with the tribe for 30 years, and have come to believe in and respect the potential of tribal governments. Because of their tribal government, the Choctaws have been notably successful in industrial development, having created over 1,000 jobs in tribal enterprises since 1979.

When you consider the plight of Choctaw people as recently as 30 years ago, denied basic human rights, denied educational opportunities, living in a low-wage or no-wage farm economy; a modern and industrial economy is quite a contrast. Bringing unemployment down from 60 per cent of the work force to 20 per cent is quite an accomplishment.

The Choctaw people decided that in order to survive, it was necessary to obtain educational opportunity, adequate health care, decent housing, develop the community, and preserve the culture; we had to exercise control over our lands and develop a strong and stable tribal government, a prerequisite to economic development.

To begin with, we revised our Constitution and Bylaws, streamlined our tribal government, and established a strategic planning office for economic development -- and went about improving opportunities step by step. It has not been easy, for there were no quick solutions to these problems; it has after all taken us nearly 30 years to get to this point of success.

For any economic development to take place anywhere, the tribal government must be the institution which must initiate and support reservation development. Economic development is more than just capitalization of businesses, and is rooted in tribal government development, infrastructure development, and community involvement. Tribes are very far behind in a game of economic catch-up. We have to start from the basics, and simply cannot reach our goal through the suggested strategy of "privatization." If one looks at developing countries around the world, it seems that privatization does not become an issue until after substantial development has taken place.

Businesses are not looking to build infrastructure and outright own businesses on reservations, they are looking for suppliers who can get them their products on time, with a high quality, and at a competitive price; and they are really looking to reduce their own costs and find advantages for themselves over their competition. They will not find a group of rich Indians waiting on the reservation border about to issue corporate stock shares so they can do business with them -- because there is no personal wealth on the reservations, the only institution businesses can deal with is the tribal government.

As such, the option of how to do business, under what structure, should be left up to the tribes to choose, whether they want to pursue tribally-owned enterprises, or individually-owned businesses, joint ventures, or wholly-outside-owned businesses, or a mix, on their reservation. We have experience with each of these business structures. We have three tribally-owned plants producing wiring harnesses for General Motors and Ford; a joint venture producing automobile radio speakers for Chrysler; another joint venture producing wiring and circuitry for Westinghouse, Chrysler, and Navistar; a wholly-outside-owned enterprise producing hand-finished cards for American Greetings Corporation; and two individually-owned businesses, a small grocery store, and an arts and crafts shop.

Recently, the Bureau has taken the attitude that tribal governments should "create an atmosphere" for business, but should stay out of business. At this point in Indian development, this approach is not correct.

The reduction of high levels of unemployment on Indian reservations must be effectively and seriously addressed by the federal government, especially considering that previous attempts have not been very successful. Now is the right time, because many tribal institutions have matured to the point that economic development is clearly possible. Several bills have been introduced to repair existing economic development programs, but there is a much larger and long-range issue in all of this -- the federal government's overall approach to Indian economic development. In many ways, it is both fragmented when it should be unified, and generalized when it should be individualized. Let me explain.

Responsibilities for federal domestic support for Indian economic development are spread among a large number of federal agencies. Economic assistance is thus often obtained only by those tribes with sufficient staff expertise to parlay HUD, BIA, EDA, and private lending agencies' resources into single projects that take into account the differing program guidelines, requirements, and deadlines, which expend considerable time, effort, money, and attempts to overcome bureaucratic delays. It is my belief that the federal system would be more effective if the economic development appropriations for the various agencies were transferred to a single office in the Interior Department (preferably not the BIA) staffed with people who understand what business is. Bureaucrats by definition are not businessmen. Tribes need an office that can fulfill a broker role in Indian development, with staff members who can communicate with the private sector, and who are able to develop package approaches to tribes' needs.

Current agency fragmentation is one problem, too generalized an approach the other. Though some tribes have made great progress in economic development, most tribes would tend toward the bottom of the scale. They run the gamut from total lack of development to fairly sophisticated economies. Each has its own customs, and, more importantly, its own individual government-to-government relationship with the federal government. No federal effort in Indian development can succeed without an institutional emphasis on the diversity of Indian reservations and their tribal governments. Plans for solutions to tribal economic problems must be worked out on a tribe-by-tribe basis and must have as a foundation an individualized assessment, conducted perhaps by experts under contract to the Interior Department, of each and every tribe. There are different needs at different levels of development; and the quick-fix, across the board "initiative" approach just won't do.

My tribe had the foresight and leadership to make an investment and take a risk in all this -- and all economic development involves a risk — and borrowed substantial amounts to start the tribal enterprises. But because of our commitment, we have been able to construct and staff six industrial plants, with over 300,000 square feet of space, for a total investment of around $9 million. We still have around $4 million in indebtedness, but also have annual sales of $25 million, compared to $500,000 in 1979. Our record shows that successful Indian economic development is an excellent investment for both tribes and the federal government. Not only have we relieved the government of paying large annual sums in transfer payments to individuals, we have also greatly increased the level of personal income taxes flowing from the reservation into the U.S. Treasury. We have also been able to restore pride and a feeling of self-worth for the enterprise employees.

Development, however, on our reservation, and all reservations, is a part of a much larger effort. We are, most of us, engaged in doing all we can to keep American jobs in the United States. The economic development of Indian reservations is a part, an important part, of this overall effort. When we got into the automotive business, we had no idea we would end up competing wth the Third World. I can tell you with some certainty that if we had not developed those 1000-plus manufacturing jobs in our tribal enterprises, you would now find the vast majority of those jobs in Mexico or Taiwan.

Because of the overwhelming importance of addressing high levels of reservation unemployment, my recommendations to the Committee, as a starting-off point for further consideration, would be these:

1. To establish an Office of Tribal Development within the Interior Department, staffed with people who come from the private sector, funded by an initial investment of around $30 million transferred from other Indian economic development programs, with policy decisions made by seven commissioners appointed by the Secretary of the Interior, two from the private sector, one Indian entrepreneur, and four tribal leaders with proven success in the area of economic development. The Office would be responsible for concentrating on and "brokering" for, initially, 25 tribes selected on the basis of a rating of competitive proposals; and also for providing resources to strengthen tribal governments and fund economic development planning offices for a larger number of tribes. This office would maintain contact with the private sector and lending institutions, seeking out businesses interested in expanding sales and in potential partnerships with tribal governments or locating plants on a reservation. It would have authority to expend funds for infrastructure, and would develop loan packages, link with groups working with Indian enterprise zones (to avoid projects designed purely for the exploitation of Indian labor), and administer funds appropriated pursuant to the Indian Financing Act.

2. To permit Tribal Development Office funding of tribal economic infrastructure projects (industrial buildings and equipment, water and sewer, and/or renovation) at 100 per cent for those grants less than $1 million — 50 per cent for those over $1 million.

3. To restore funding for the Indian Financing Act grants, for which funds have not been appropriated since fiscal year 1979.

4. To authorize an exception to Office of Personnel Management procedures for hiring and retention of Office of Tribal Development staff members.

5. To require the Office of Tribal Development to report yearly to the Secretary on progress, problems, and recommended solutions to those problems; and to establish sunset provisions at the five year mark.

Thank you.

PREPARED STATEMENT OF ROBERT A. OLNEY

Mr. Chairman, my name is Robert A. Olney and I am the Chairman of the Timber, Grazing and Overall Economic Development Committee and accompanying me is Ray E. Olney, Chairman of the Legislative Committee. We are both members of the Tribal Council of the Yakima Nation. Thank you for allowing us to present testimony today at these oversight hearings.

The Yakima Indian Nation, a confederation of 14 tribes and bands is a treaty tribe, signatories to the Treaty of 1855. Our Reservation encompasses 1,371,918 acres in south central Washington. This is only about 1/10 of our original area of occupancy.

All our natural resources, gifts of the creator, are sacred to our people. Many promises were made by Governor Isaac Stevens, as documented in the treaty proceedings at the Walla Walla Treaty Council that were not carried out by the United States government. The Yakima Indian Reservation today with its abundance of natural resources is being exploited for economic development while the vast majority of our people live in poverty.

Our ancestors of yesteryear lived by hunting, fishing and food gathering. There was an abundance. Everyone had food, clothing, shelter and a function in our traditional tribal community.

There were many policies that forced disposession of our resources from us. The impact and effect of these colonial policies have had their adverse effect upon our way of life and our resource base. For the most part, the economic benefits have accrued to non-Indians.

Our traditional economy is under constant attack from all directions. We are faced with political, social and economic oppression. Unlike other countries defeated by physical battle we have never received any war reparations to reconstruct our government and economies the way it was explained to our people and documented in the Walla Walla treaty proceedings.

Tribal sovereignty and treaty rights are recognized as the supreme law of the land under the United States constitution. It is the genesis of President Reagan's Indian policy of government to government relationship. If Congress does not make it a reality then it may well be another hollow policy that sounds and looks good on the cover only.

In order to control our economic future we must be able to control our land base. Yet we are forced to spend an inordinate amount of our time and money fighting the state and local county governments who incessantly continue to intervene to try to assert jurisdiction over our tribal land. Article XXVI of the State of Washington's Constitution and Compact with the United States specifically stipulated that the State of Washington, "disclaim all right and title to...all lands owned or held by any Indian or Indian tribe." As the Congress is a party to the Washington State Enabling Act and the above referenced Disclaimer, we suggest that if the Congress is interested in supporting economic development for Indian tribes in Washington State that you should statutorily mandate that the State comply with this law.

Today like many other under-developed countries in the world we desire self-determination in a meaningful way. Over 1/2 of our tribal population approaching 7,500 are under the age of 25. Our basic economic unit composed of the family structure is in need of employment opportunity. Our unemployment rate is near 70%.

Our experiences in tribal enterprise has varied. We have had a Seafood Processing Facility, Executive Air Enterprise, Pan Sylvan Engineering, Boat Manufacturing Facility, Agriculture Enterprise, Heavy Equipment Construction Enterprise, and a Garment Enterprise, all of which did not become successful for some reason or another. Primary among these reasons were a lack of sufficient capital resources and a lack of expertise in management.

Specific examples of enterprises with some level of success include:

(1) **Yakima Land Enterprise.** Established in 1950, to purchase land and turn around the loss of our reservation land base. Land Enterprise today is self sufficient and requires no tribal financial support. We have computerized our financial records including accounts receivable.

(2) **Wapato Industrial Park.** The park has 114 acres of industrial zoned land utilized by five businesses at present. The site is strategic in its location to major northwest cities, with access to highway, rail and air. It has a working infrastructure in place.

(3) **Mt.Adams Furniture Factory.** This is a Yakima tribally owned furniture manufacturing plant. The furniture is sold wholesale in Washington, Idaho, Montana, Utah, Wyoming, Arizona, Alaska, Hawaii and British Columbia. In operation since 1973, it is a 120,000 sq.ft. facility and employs 70-80 people.

(4) **Cultural Heritage Center.** Included in the center is a museum, gift shop, library, theater, winter lodge, and restaurant. The restaurant is currently closed. The original plan included a motel which would enable the Cultural Heritage Center to hold and cater to conferences, meetings and conventions. Tribal appropriations are necessary to keep the center open.

(5) **Yakima Nation Credit Enterprise.** The Credit Enterprise Program was established to provide loans to tribal members. The Credit Enterprise which had been successful is now experiencing difficulty in collection of loans because of the depressed economic conditions of our environment. We need to be able to continue to use IIM accounts in making loans but the Kennerly case has created some obstacles as would the proposed Mellon Bank transfer.

(6) **American Indian National Bank.** It is important for this committee to understand our tribes' involvement with the American Indian National Bank so that you will be cognizant of its limitations and the need for a federally chartered development institution.

During the past 13 years, the Yakima Indian Nation has participated as the major shareholder in the American Indian National Bank. The underlying concept of the American Indian National Bank was twofold: to assist in the economic development of Indian Tribes and Governments throughout the United States and to provide an investment opportunity for those Tribes which participated as shareholders. Unfortunately, given the capital constraints and limitations of a small bank, these two objectives could never be successfully achieved.

A small bank is not a vehicle to meet the economic needs of a tribe. Small banks have very limited capital and have certain regulatory barriers that make assistance to tribes quite difficult. To start with, banks are prohibited from branching across state lines. Even subsidiaries of holding companies are required to have their own independent capital. The American Indian National Bank, located in the District of Columbia, is not readily accessible to either its principal tribal shareholders nor to tribal businesses. It would not have really mattered what state such a bank would have been located in, the interstate banking restrictions would have lessened its effectiveness in all other states.

Banks have lending limits stipulating that they can loan only 15% of their capital to any one borrower. The Indian Bank, with only $4 million in capital could therefore only make a maximum loan of $600,000. It is not unusual for any major economic development project to be in need of a loan of five to ten million dollars. The limitations of the Indian Bank are therefore obvious.

As Tribal revenues continued to decrease in the 80's investor Tribes became increasingly concerned with the return on their investment. It appeared that the two goals were incompatible given the current operating environment, and, the emphasis recently shifted from assisting Indians and Indian Tribes with financial services to a more profit oriented business enterprise. In now looking at the American Indian National Bank as an investment and service entity tribes have become somewhat disillusioned with the services provided to them and with their return on investment.

However, the inability of a small institution to address such a need does not in the least detract from the magnitude of the need for such an institution. There exists a very real need throughout Indian country for a financial institution which will not only provide long term development capital and sources of financial credit, but will provide technical assistance necessary for industry and enterprise success.

The Future

It is our goal to provide for stable, productive, private sector employment for our people. Our natural resources probably offer us the greatest potential for realizing this goal.

Timber. We own over 7 billion board feet of standing timber. Over 80% of our tribal income is derived from timber sales. Our annual allowable cut is 186 million board feet. In our current situation, we are at the mercy of the timber economy which can be a real roller coaster ride. This is because we have never diversified from anything more than just selling the stumpage. After we sell the tree there are 8 - 12 people who profit from the same tree.

Our plan, if approved by our general membership, is to acquire a saw mill. This would provide an economic base, provide added values, provide employment opportunity and additional revenues. This would open the way to sort, grade and diversify our marketing ability to even include exporting when feasible. Pulling timber sales off the bid process to support our own mill would increase the value of our other sales. There is a specific saw mill that we are looking at purchasing but obviously we will need financial assistance to be able to buy it.

Agriculture. The Yakima valley is known for its fertility and ability to grow a wide variety of farm commodities. The BIA operated Wapato Irrigation Project, (WIP), utilizing tribal water rights, irrigates 142,000 acres on our reservation, making it the largest irrigation district in the valley. In 1986, over 35 crops on WIP lands produced a gross value of $105,753,000.

We have the potential to irrigate a minimum of 30,000 additional acres not presently irrigated or farmed and have been meeting and planning with federal and state officials on the Yakima River Basin Water Enhancement Project to do just that. We have recently gotten the court to agree to a stay in the illegal water adjudication process known as the Acquavella case in which our water rights are proposed to be adjudicated in state court. (Another example of state interference in our economic future.)

The federal government is long overdue in the protection of our water resource, our most valuable natural element, as non-Indian development has over-appropriated the resource without accounting for the need for sufficient water flows for the anadromous fishery or the on-reservation water right. These are the oldest legal water rights in the Yakima River Basin system.

We ask this Committee's assistance on a related matter. We need to be able to purchase fee lands, that were once in trust, and have them placed back in trust. We must be able to use any source of tribal revenue to be able to purchase such fee land and have it placed back in trust. We are probably the only Tribe in the country that does not have the ability to re-establish our trust land base, because of certain restrictions in the Yakima Act, (P.L.88-540). We need your support to amend the Act. This existing restriction on land purchase creates a significant barrier in our planning capabilities and hinders economic development.

Recommendations

The Yakima Indian Nation recommends:

1. Enterprise Zones. The Yakima Tribe supports the idea of an enterprise zone program for the Indian tribes if it has federal preemption over states. The tribes prefer government to government relations with the U.S. government.

The enterprise zone legislation should include economic development tools to enhance and promote economic development including:

a. employment tax credits;
b. exemptions from some items from state sales taxes for industries;
c. abatements in real estate, state property taxes and assessments;
d. low interest rate loans for industries;
e. targeting of infrastructure expenditures to the enterprise zones;
f. streamlining of cooperative efforts between federal agencies involved in Indian economic development so that such development can be properly coordinated.

2. Indian Preference in Procurement Contracting. The Yakima Tribe favors Indian preference in procurement contracting. We need:

a. The criteria to be streamlined to encourage tribal eligibility for SBA 8(a) designation;

b. management should not be considered in 8(a) designation since the tribe is in a minority position;
c. there should be an Indian preference desk to administer Indian preference in the SBA and to coordinate with other agencies;
d. all tribes should be able to benefit from an 8(a) or Buy Indian designation that would apply to all federal agencies in need of purchasing goods or services from minority businesses;
e. the Department of Labor should designate Indian reservation and tribal businesses as eligible labor surplus areas;
f. the Department of Defense to set aside for labor surplus for Indian reservations also.

3. American Indian Development Finance Corporation Act. Based upon our experience, we are convinced that a financial institution as envisioned in S. 721 would be an integral part of economic development on our reservation. Only a fully fledged federally chartered Development Finance Institution would be able to furnish capital, provide financial services including marketing and provide the technical assistance that together are necessary to assist tribes toward true economic development.

Not only have numerous studies identified the need for such financial assistance but our experience with a regular bank, including the limitations and regulations a bank such as the American Indian National Bank must adhere to, have further convinced our tribe of the need for a federal finance institution.

Mr. Chairman I want to thank you for letting us testify. Because of the limitations on the length f this testimony it is necessarily brief and not all-inclusive of our economic concerns. We have tried to give you an overview of some of our experiences but did not really get in to all of our potential, particularly our human potential in the abundance of our existing labor force. Another natural resource potential that we haven't discussed is grazing for livestock. We have thousands of acres that are presently grazed that also offer the Yakima Tribe an opportunity for development. These issues can be addressed in future testimony or in supplemental material submitted pursuant to this hearing.

PREPARED STATEMENT OF AL HENDERSON

Chairman Inouye, Vice Chairman Evans, members of the Senate Committee on Indian Affairs, colleagues and guests. My name is Al Henderson, and I bring greetings from Chairman Peter MacDonald of the Navajo Nation Tribal Council. Chairman MacDonald recently appointed me to implement his business and economic development plans and programs, and much of my testimony today will deal with the actions we have initiated in the last several weeks. These actions, we believe, will begin a process that will accelerate business development and a pattern of sustainable economic growth in the Navajo Nation.

First, however, it is important to understand why we believe it is necessary to strengthen the private sector to reduce our high unemployment, now hovering around 32 percent. As you well know, American Indian tribes have had a long history of depending on federal grants and various forms of financial aid to provide direct assistance for educational, health and social services. The delivery of these services, in turn, provided jobs. For several years, funds from these sources have been steadily declining. This has adversely affected both services and the employment of tribal members.

Generally, federal and tribal policies nationally have tended to place tribal government at the center of the development process. Tribes were expected to act as the primary engines of development. Creation of tribally-owned enterprises and public sector employment were stressed. When outside industry was recruited, the roles of tribal members themselves in the development process were viewed as passive: providing a pool of "human resources" (labor) whose chief advantages to outside businesses were its availability and low wage rates.

Such strategies, with some notable expectations, were not very effective at producing sustainable growth or building economic independence. In the Navajo Nation, government wages and transfer payments accounted for most personal income, while the extraction and sale of raw commodities provided tribal revenue. Finished goods and services were purchased from bordertowns, and the multiplier effect of income produced within the Navajo Nation was practically zero. But while federal subsidies were high and before oil prices fell, these strategies at least enabled many people to work, and the semblance of an economy to function. That is no longer possible.

Between 1976 and 1986, federal grants and contracts as a percentage of total Navajo Nation revenue have fallen dramatically. During that same period, the Navajo Nation government's total annual revenue has also declined. This translates into a significant loss of jobs. But the reduction in federal funding levels is not the only cause of rising unemployment. Since the 1920s, when the BIA negotiated the first leases "on behalf" of the Tribe, the Navajo Nation government has also depended on royalty payments from mineral extraction -- oil, gas and coal, as well as some uranium. Royalty payments (and, more recently, taxes) account for over 60 percent of the Tribe's revenue base, and have been the principal means of financing the Navajo Nation government's operations and services, which are responsible for more than 4,000 public sector jobs. The decline in these extractive activities has affected Navajo Nation revenue just as it has affected our neighboring states -- particularly New Mexico.

While changes in national policy and macroeconomic trends affect the broader environment in which we have to operate, the growth of the Navajo Nation's labor force is steadily increasing the demand for jobs. Our population is young -- the average age is 17.5 and 50 percent of the population is under 21 -- and growing rapidly at nearly 4 percent per year. At this rate the population will nearly double by the turn of the century. Our high unemployment rates represents 25-30,000 Navajos who are out of work, and 2,500 to 3,000 additional people enter the labor force each year. Finding productive work for this young and growing population which will allow them to live as Navajos in the Navajo Nation and to earn a decent standard of living is the challenge of economic development.

Chairman MacDonald has vowed to create new jobs on the order of no less than 1,000 each year. We know that governmental funding, public sector jobs and the sale of raw commodities cannot sustain our economy at its current level, much less develop it. New policies are needed -- policies which put people, rather than government, at the center of the development process, and which demand new roles for governments. The core of these policies is "investment in people." We are simultaneously pursuing several strategies to make these investments.

1. Selective industrial recruitment

We have begun aggressively promoting the Navajo Nation as a country which intends to offer excellent investment opportunities for business. We realize the fundamental fact that we are in a competitive arena and that many states, counties and cities are doing the same thing, and in many ways have more, initially, to offer some companies. For this reason, we require careful analysis of the areas in which the Navajo Nation has a competitive advantage or a distinct competence, because of location, natural resources, tax advantages, market access, or our labor force. We are not interested in "footloose" industry which seeks only the cheapest labor, and will move to Singapore or Malaysia rather than to invest in a productive Navajo workforce. We are interested especially in attracting sound, "blue chip" companies whose products and services can build both vertically and horizontally from our own natural and human resource base -- agriculture and timber production, tourism and recreation, manufacturing and service-related power generation, etc. We are, in short, interested in recruiting outside businesses that will commit themselves to helping the Navajo Nation achieve economic stability in the long run.

To assist us in that effort, we have reorganized our business and economic development program, making it directly accountable to Chairman MacDonald. We have also established two new mechanisms.

(1) The Navajo Nation Business Development Task Force, an advisory body to be comprised of leading American businessmen, now being formed, will serve to establish communications between the Navajo Nation's industrial program and businesses across America.

(2) The Commission for Accelerating Navajo Development Opportunities, known by its acronym "CANDO." CANDO will consist of a dozen full-time professional staff members having extensive experience in business development, who will act much as an Account Executive would within a corporation. Once assigned a major project -- such as those resulting from Task Force efforts -- the individual Commissioner becomes the key link between the Navajo Nation and the business prospect. This linkage enables both

parties to have ready access to important information and the communication necessary to conclude an agreement leading to implementation of the proposed project.

From past experience, it has often been the case that good business prospects were lost because appropriate, continuing liaison between the company and the Navajo Nation was not maintained, to enable the company to know the weekly progress being made and the likely success of efforts to bring proposed projects to fruition. It is CANDO's responsibility to take projects identified by the Task Force and to guide them successfully through the Navajo Nation's regulatory and legal clearance processes. If we are successful, the Navajo Nation will host appropriate manufacturing or industrial operations at several of its seven industrial parks. We anticipate creating between 200 and 300 new jobs in each operation.

2. Removing barriers and creating business incentives

Even several "big" projects, by themselves, are not going to enable us to reach our target of 1,000 new jobs each year. But they can act as catalysts to the development of "home-grown" businesses. Since the premise of our policy is that employment must be generated by creating employers, the development of literally hundreds of new, Navajo-owned enterprises must be encouraged.

Yet the constant complaint of many operating businesses in the Navajo Nation, as well as others attempting to enter business, is that the cost of doing business is discouragingly high. The most commonly cited costs -- both in time and money -- are those associated with the completion, processing and approval of documents required to start a business, and those associated with the terms of business leases, permits and taxes, which hinder profitability. Both sorts of costs act as psychological and financial barriers to business start-up and expansion.

The Navajo Nation government has undertaken a review of both Tribal and federal administrative procedures, regulations and laws which act as impediments to business development. We are currently working to reform and simplify the business site leasing process, and to improve working relationships between Tribal and BIA personnel and applicants for business leases and permits to eliminate much of the buck-passing and finger-pointing which has frustrated potential entrepreneurs in the past. Some of these changes can be made simply by identifying the problems and improving the ways we work with each other. Some will undoubtedly require changes in Tribal laws. More fundamental changes in federal regulations and law may be required to redefine the exercise of "trust responsibility" as Indian nations assume increased responsibility for regulating and promoting business activity in their jurisdictions, and as Indian entrepreneurs replace non-Indian traders in the marketplace.

As we have done with respect to our outside business partners, we have also established a Navajo Nation Business Advisory Group. This body, made up of several local successful business persons operating within the jurisdiction of the Navajo Nation, will assist us by providing feedback on our effectiveness in removing barriers to business development, and making recommendations for further actions that we can take to improve the business climate.

3. Providing assistance to Navajo entrepreneurs

In addition to removing barriers, we are providing new incentives for business development. An important feature of this strategy is to provide adequate sources of credit and financing for business start-up and investment -- a job we can begin, but cannot do alone. As an immediate stop-gap measure to the problem of capital shortage, we have identified approximately $4 million of the Navajo Nation's appropriated funds which we have pooled in a new Economic Development Fund account. This will serve as seed money for new businesses and industrial development projects. Over time, our plans call for this fund to evolve into a financial institution, autonomous of Navajo Nation government operations, to serve financing requirements of businesses.

In this regard, we support Senator Inouye's bill (S.721) to create an American Indian Development Finance Corporation. Although our own efforts will enable us to provide start-up and operating capital to smaller businesses, the AIDFC will provide financing for major projects requiring capital on a larger scale. The tax-exempt status of the Corporation's capital reserves, surplus income and property would be extremely beneficial. The Navajo Nation believes that other incentives may also be desirable. We will supply the Committee with amending language in the near future to address these issues.

In the long run, to finance major business development projects that require sizable capital injection, the Navajo Nation will also give serious consideration to debt financing, issuance of bonds as authorized under the Tribal Tax Status Act, and other forms of tax-exempt or tax-sheltered financing. We intend to reconstitute the Bond Finance and Investment Committees to enable them to seek new sources of capital formation and investment options to advance the Navajo Nation's business and economic development agenda.

Our business incentive program also seeks to improve the competitiveness of our industrial parks and shopping centers through infrastructure improvements, and to withdraw additional land in primary and secondary growth centers, creating our own "enterprise zones." In this regard, we want to acknowledge here our strong support of Senator McCain's "Indian Economic

Development Act," which will offer just the sorts of Federal tax credits and other incentives to employers in Indian enterprise zones that we feel we can create attractive business development opportunities. We believe that some amending language in this bill could make it even more helpful. General Dynamics has been in the Navajo Nation for 20 years, and has recently expanded its facilities. But to do this economically, they require trained workers. Although the Job Training Partnership Act, administered by our Division of Labor, has been used effectively, it will reach only a relatively small percentage of those who need training. This bill could be improved by including job training credits similar to the proposed hiring credits.

In addition to other incentives, we are establishing five Regional Business Development offices whose responsibilities will include: packaging financial and business plans; providing assistance to Navajo entrepreneurs in securing business site leases, financial assistance and Navajo preference certification; and providing a wide array of management and technical assistance to business owners.

4. Creating a skilled workforce

Finally, we have learned that available capital and proper incentives are only some of the necessary conditions for economic progress. Education and training of the workforce are as important as economic costs associated with production. The

Navajo Nation believes that job training and higher education are critical in achieving our growth plans. We urge the Committee to use its influence to secure greater resources for Indians from job training programs.

Recently, the House Education and Labor Committee marked-up H.R.90, the "competitiveness" bill. In the bill are provisions to assist tribes to leverage additional funds for the training and re-training of displaced workers. Perhaps we can strengthen these provisions in the Senate's companion legislation. A portion of the funds appropriated under this bill might be authorized as a set-aside program to train former Navajo uranium mine workers, hundreds of whom have lost jobs when the uranium market collapsed. The recently passed "Jobs for Employable Dependent Individuals" bill by the Senate (S.514) also provides opportunities. In addition, we encourage your continued support of the Job Training Partnership Act, and appreciate the continued Congressional support of funding for higher education programs administered by the Bureau of Indian Affairs, Navajo Community College and the Crownpoint Institute of Technology.

Part of this strategy involves gearing our training and education programs toward activities with strong built-in job-creating components. The Navajo Nation government is working closely with the Crownpoint Institute of Technology in developing an entrepreneurship training program to identify potential owners of start-up businesses and strengthen those behavioral traits --

such as opportunity-seeking, risk-taking, planning, and demand for quality and efficiency, that are critical to business success.

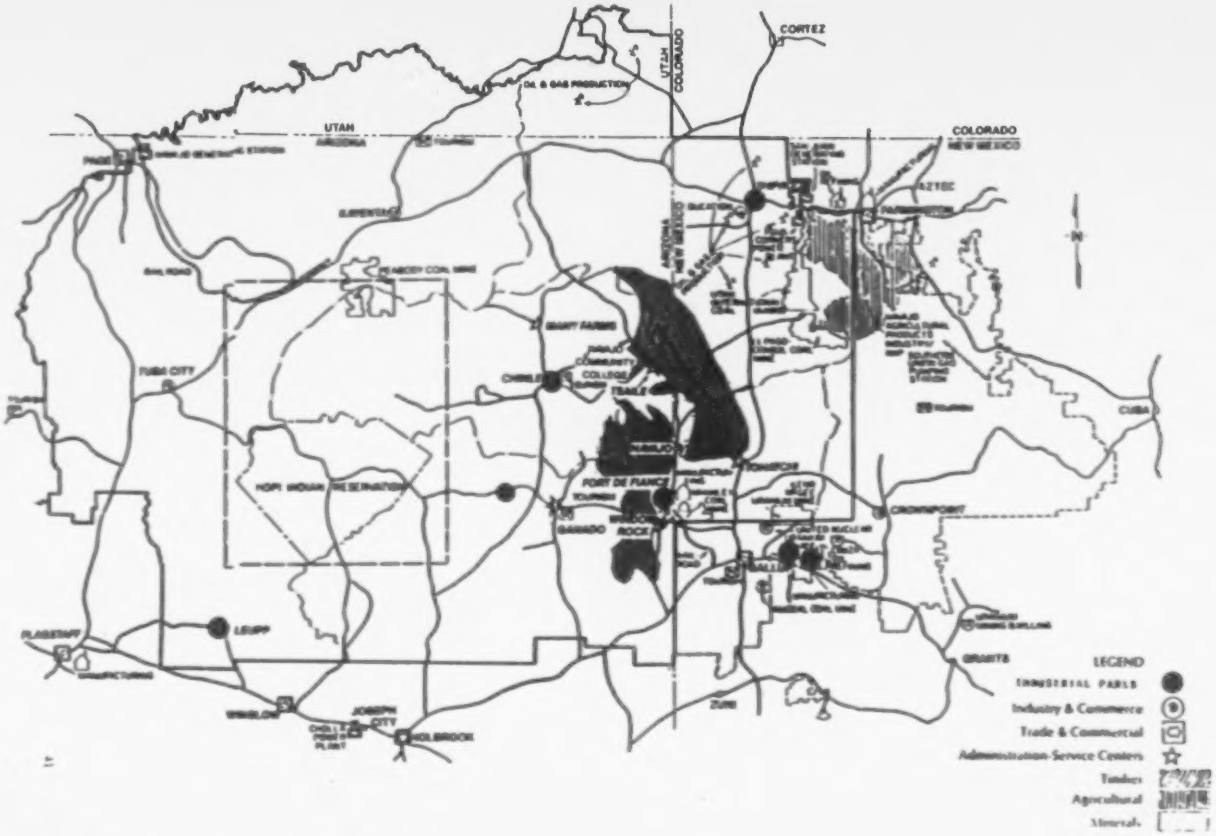
Finally, "investment in people" also means involvement and action at the local level. Solid partnerships must be formed between BIA, IHS, Chapter officials and local businesses, teachers and community leaders who understand the needs of our tribal members. Their active contributions to our efforts must guide the implementation of these policies. The success of these initiatives will depend on forging close working relationships between federal, state and tribal governments and the private sector. We need assistance from our Federal Trustee in developing our resources, providing educational and job training opportunities, delivering quality health care and helping us preserve and clean up our environment. What we do not need from our Trustee are proposed royalty revaluation regulations by the Minerals Management Service that, if implemented, would deprive us of hundreds of millions of dollars in revenues. Nor do we need new tuition requirements for those Navajos attending the three BIA post-secondary schools.

We need bold, innovative, forward looking solutions to our problems as proposed by our Senators from New Mexico and Arizona -- Senators Domenici, DeConcini, Bingaman and McCain. Just 10 days ago they agreed to host an Economic Development Summit in the Navajo Nation -- the first of its kind -- to devise a strategy to attract business and investment. Those who will be invited to participate include business leaders, the New Mexico, Arizona and Utah Congressional delegations and their Governors, Interior Secretary Hodel, Assistant Secretary Swimmer, members of our Tribal Council and economic development officials from the surrounding states. We believe that this high-level attention will lead to the kind of action our problems require.

The Navajo Nation thanks the Committee for their increased activism and advocacy on behalf of Native Americans. We believe that Indian Reservations represent the last economic frontier needing to be developed in the United States. Through your hard work and positive initiatives, Indian tribes will be able to move from long-term dependence to true self-sufficiency.

ATTACHMENT A

MAP OF THE NAVAJO NATION


CORTEZ
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TUBA CITY
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NAVAJO COMMUNITY COLLEGE
TSAILE
NAVAJO
FORT DEFIANCE
WINDOW ROCK
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CROWNPOINT
GALLUP
GRANTS
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LEUPP
FLAGSTAFF
WINSLOW
JOSEPH CITY
HOLBROOK
41
LEGEND
INDUSTRIAL PARKS
Industry & Commerce
Trade & Commercial
Administration Service Centers
Timber
Agricultural
Minerals

PREPARED STATEMENT OF DAVID LESTER

Mr. Chairman, I am A. David Lester, Executive Director of the Council of Energy Resource Tribes (CERT). CERT is a tribal organization of 43 tribes which governs and directs its policies and operations. Collectively, these tribes represent over 50% of the on or near Indian reservation population in the U. S. and own or have governmental jurisdiction over nearly 60% of all Indian lands. The tribes created CERT as an instrumentality under their control to assist them more fully exercise their responsibilities of government to build more stable, diversified local tribal economies by protecting, managing and prudently developing their resources according to each tribe's own values and priorities.

We are pleased to be invited to share our successful experience in tribal development and to comment on your proposals to further the development of Indian tribal economies. Let me first summarize our views based on CERT's experience over the past eleven years.

Unemployment is a serious problem as you have very correctly pointed out in your statement. Among the various Indian tribes, unemployment ranges from 25 to 90% with a national rate of over 40%. That is close to what it was averaging 20 years ago. The consistently high percentage of Indian unemployment and low per capita income over such a prolonged period has led some analysts and government agency decision makers to erroneously conclude that past economic development and employment efforts are failures in both concept as well as practice. It is my view that the facts do not support this conclusion.

There is a growing number of very successful business enterprises employing thousands of Indians that are a direct result of tribal initiatives. Additional thousands of Indian workers have found employment through tribal enforcement of

Indian preference and the elimination of employment discrimination through tribal employment rights ordinances. The small business development success of the United Indian Development Association and other regional Indian efforts have shown that Indian businessowners can successfully compete when they are given the help to overcome the barriers and constraints to Indian participation in the American enterprise system. These Indian owned companies employ a high percentage of Indians in their work force. During the past two decades, largely at the insistence of tribes and their advocates increased education and training opportunities have significantly improved the ability of Indians to compete in the public and private labor markets. The result of these efforts is that there are more Indians gainfully employed today than ever before in U. S. history.

The reason unemployment percentages have remained high and per capita income low despite the successful efforts of the tribes is a simple one: the U. S. Indian population has nearly tripled in the past twenty years!

The 1960 U. S. Census counted a population of 523,591 Indians. By 1980 our population by official count had grown to 1,364,000 with nearly half residing on or near Indian reservations. Today in 1987 the U. S. Indian population is estimated in excess of 1.7 million. This is the reason that unemployment percentages have remained high while actual numbers of Indians working have steadily increased.

However appalling the unemployment/employment statistics and their corrollary per capita income data are to all of us, I strongly recommend for your consideration that they are not the key indices to be used to measure the performance of Indian tribal economies. I make this recommendation based upon the more than 2,000 economic and development projects CERT has conducted over the past eleven years. The empirical data collected in these projects combined with primary research and analysis for a special project funded by the Administration for Native Americans to determine the economic indicators for tribal economies have led CERT to conclude that of all the economic indicators three stand as the most significant in measuring tribal economic performance. These are the Gross Reservation Product (GRP), the sum total of all goods and services produced and delivered within a tribe's economy from all sectors including public and private; the Economic Leakage (EL) or the degree to which income to the tribal economy is diverted to the surrounding non-Indian economy; and, the Economic Multiplier (EM), the economic stimulus the tribal economy derives from each dollar of income.

Using these indices we found that programs and services that remain in federal control and enterprises that do not operate within tribal political and economic boundaries do not have a positive impact on the GRP, EL, or EM but rather exacerbate the leakage and lower the multiplier. We, therefore, have concluded that programs and development scenarios that exclude tribal governmental control are counterproductive to the goal of stable, diversified tribal economies.

When the key indicators of tribal economic performance are applied to the efforts that conform to the Congressional Indian policy of self-determination and self-government, we find a direct link to improved tribal economic performance.

For this reason, the 43 tribes of CERT cannot accept the current rhetoric of BIA leadership that professes adherence to tribal self-government and economic development on the one hand and on the other hardly misses an opportunity to discredit the competence of tribal government.

My considerable personal professional experience in Indian development and that of the Council of Energy Resource Tribes does not support the myth that tribal governments are not capable of acting on their own behalf for the interest of their constituency. Indeed, the record is clear that in virtually every instance in which a tribe has been able to initiate its own development and wrest the decision making from federal control they make better agreements and achieve more success than when the decisions are controlled by outside interests, whether federal or private. Tribes are more successful in achieving higher incomes and other forms of economic benefit such as local employment and subcontracting. They are more successful in preserving or extending tribal governmental responsibilities such as environmental protection to preserve their land for future beneficial use. More importantly, perhaps in the long run, they are more successful in acquiring increased technical and managerial capabilities necessary for future development. It is precisely these three areas that are critical to improving tribal economic performance based on the key indicators of self-sufficiency and self-determination and through these successes tribes can and will develop the stable, diversified economies that they desire and deserve.

It is for this reason that we can and should draw the distinction between development that benefits the tribe and exploitation of Indian resources that has provided minimal economic benefit to the tribe while passing on to tribal society the enormous environmental and social costs. Tribes have had more than their share of the latter with little assistance to achieve the former.

The experience of the 43 energy resource tribes that I work for is that they have had success when they have taken an active leadership role in every stage of project development from concept to full implementation, including the development of governmental management and delivery systems appropriate to the development in question. While tribal management of resources and reserves and the accounting for income streams associated with the development of trust resources traditionally have been held to be the provence of the Department of the Interior, tribal experience clearly demonstrates the ability of tribes to quickly exceed the managerial competence of the agencies who are mandated to serve the tribes.

I have been asked by the other panel witnesses to summarize the information that they have provided here today and to put it into the context of the package of initiatives that under your leadership, Mr. Chairman, the U. S. Senate has underway, which we understand includes S. 721, the Indian Development Finance Corporation Act under discussion today; amendments to and reauthorization of the Indian Finance Act; the Indian Economic Development Act, S. 788; review of and amendments to Public Law 93-638, the Indian Self-Determination and Education Assistance Act and a review of Indian and tribal participation in federal preference and set-aside programs.

The panel witnesses have, in my view, made a compelling case for a federal Indian development policy that recognizes the need for and the legitimacy of each tribe charting its own course and setting its own pace according to each tribe's vision and priorities. The successes discussed as well as frustrations expressed by the tribal witnesses clearly demonstrate that Indian tribes must have a strong role in setting the policies and in directing the operations of the instrumentalities that are created to assist in their economic development. The eleven years of success of CERT as a tribal organization adds to that testimony.

The witnesses also laid out the three broad strategies for tribal development that are being employed by tribes throughout Indian country: one, the attraction of outside companies to invest and locate within their jurisdiction to create jobs and income for tribal families; two, retail, service and commercial small business development to capture internal tribal markets; and three, the development of tribal value added activities such as sawmills, processing and transportation as important adjuncts to be derived from tribal natural resource development.

With respect to tribal development of value added enterprise and governmental activities derived from primary resource development we note that there are virtually no case where federal management of Indian resources have led to value added activities that benefit the tribes' economies. Such value added activities are conducted outside of tribal economies and the benefits of jobs and profits delivered to non-Indians. In contrast, tribal management invariably leads to tribal participation in value added activities.

The successes of tribes utilizing these strategies are due to the fact that these economic developments enhance rather than detract from tribal self-government and tribal social goals. And these strategies have the effect of improving tribal economic performance when measured by the three key indicators of self-sufficiency.

We do know that there are constraints to successful pursuit of any one or all of these strategies. It is CERT's experience, corroborated by the UIDA experience, that principal among the constraints and among the more difficult to overcome for Indian tribes and Indian businessowners operating within reservation economies is the scarcity of technical, professional and managerial expertise and the inaccessibility of capital to develop otherwise worthy economic ventures.

Your proposed Indian Development Finance Corporation addresses these two critical elements, managerial and technical assistance as well as access to capital—capital that accepts the legitimacy of tribal government, capital that knows how to benefit tribal economies. When S. 721 is enacted, it will bridge these gaps by creating an institution that itself will be an enterprise governed and directed by Indians for the benefit of Indian tribes and their members and in so doing meets the tests that CERT experiences have found to lead to success.

I have studied the functions of the proposed Indian Development Finance Corporation and find that it will, when enacted, help overcome the business assistance and financing constraints to business development within tribal economies. This proposed institution will become a magnet for additional investment and business opportunities. It will become an effective intermediary in linking tribal economies to the larger American economic system.

However, I also note that it is not a commercial nor a development bank. That is, it will target on a specific mission but will not provide banking and other financial services nor will it provide financing to fund or underwrite community and economic infrastructure through public works. While it is true that tribes often lack the transportation, communication, utilities and other basic community infrastructure to support accelerated development, I personally recommend keeping the mission of the Indian Development Finance Corporation focused as it is now in S. 721. To broaden its purpose will lead to an inability to meet the broadened responsibility and the heightened expectation.

With respect to your Committee's review of 93-638, I urge using the framework provided by the key economic indicators because the policy of self-determination and proper implementation by the Bureau of Indian Affairs and the Indian Health Service is central to an effective national tribal development policy. It is important that your review include those programs and functions which the agencies through the rule making process were able to exclude from the reach of tribal control.

I am referring specifically to the management of tribal trust resources and the trust protection. I have earlier very briefly discussed the disadvantages of federal management control and the loss of economic opportunity that this control extracts from the tribes on the premise that management control is a necessary component of trust protection.

We believe there are other ways to carry out the trust protection responsibility without excluding tribal management control, at least as it affects energy and mineral resources. If such an alternative were adopted by the Department of the Interior, natural resources development could then be integrated into tribal economic development and for many tribes provide a base upon which to implement economic diversification initiatives.

Conclusion

I have attempted to demonstrate that the status of Indian tribes need not be a burden to tribal development. Rather, the evidence speaks to the opposite—that self-government and self-determination are positive factors in tribal economic development.

Adoption of the key indicators of the performance of tribal economies as they develop toward stability and diversity will provide tribes and the Congress with an objective yardstick to measure progress and to make the necessary policy and program changes as markets and economies evolve.

It should be recognized that the five elements of the Senate Economic Development initiative neither singly nor collectively constitute a magic pill that will transform tribal economies overnight. Indeed, there are many other issues such as economic and community infrastructure financing that are not addressed fully by S. 721 or the entire package now being considered.

I find, however, much to commend in the effort you are leading as Chairman of the Senate Select Committee on Indian Affairs. This is particularly inspiring to me because it represents a serious concern backed by action to renew the commitment to invest in the future of Indian tribes and through the tribes in the future of Indians in the United States.

Thank you for your leadership and for the opportunity to share my views and the experience of CERT as it relates to tribal economic development.

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